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POLICIES AND PROGRAMS OF THE OFFICE OF INDIAN EDUCATION

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

OVERSIGHT HEARING TO REVIEW THE PROGRAMS OF THE PRINCIPAL RECIPIENT OF FEDERAL FUNDS FOR INDIAN EDUCATION, THE DEPARTMENT OF EDUCATION

OCTOBER 27, 1989
WASHINGTON, DC

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POLICIES AND PROGRAMS OF THE OFFICE OF INDIAN EDUCATION

FRIDAY, OCTOBER 27, 1989

U.S. Senate,
Select Committee on Indian Affairs,
Washington, DC.

The committee met, pursuant to notice, at 10:02 a.m., in room 485, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, McCain, and Daschle.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The Chairman. Good morning and welcome to this hearing of the Select Committee on Indian Affairs.

Although the attendance here seems rather sparse in participants and in members, I hope that you will not translate this to mean that this committee is not concerned. I can assure you, as chairman of this committee, that education is of the highest priority. That is one of the reasons we are having this hearing this morning.

Last month we addressed S. 496, a bill on Indian vocational education, and we were able to incorporate several of its recommendations into the Carl Perkins Reauthorization Bill currently being considered by the Senate Labor and Human Resources Committee. However, we have not had an opportunity to comprehensively review the status of Indian education during the 101st Congress. This morning we will begin the process. This will not be the first and last hearing; it will be the first of very many.

This morning, we gather to review the policies and programs of the Office of Indian Education. We are here also to review other programs administered by the Department of Education for which the Office of Indian Education has coordination and policy responsibilities.

This hearing's primary purpose is to review the programs of the principal recipient of Federal funds for Indian Education, The Department of Education. We hope to gain a better understanding from this hearing of how Indian education is faring, to learn about Impact Aid, adult and vocational education, vocational rehabilitation, science improvement in minority institutions, bilingual programs and research, and library services. We want to learn how fully these programs are being utilized by the Indian community and how access to them might be improved.

The immediate stimulus for this hearing was the concern for the continuing delay in the appointment of a permanent director for the Office of Indian Education and the fact that the office is not fully staffed. The concern over the absence of these appointments was reflected in serious program delays. Actions on formula grants to public schools and in funding Indian fellowships were not received until school and college terms were well underway this Fall.

If the Department of Education is to forge the Office of Indian Education into an effective and well-functioning office, we believe that it is critical that a director be appointed and that the office be fully staffed on an interim and then permanent basis and that the Department's Indian preference policy be implemented.

We have a number of witnesses this morning. Unfortunately, our time is limited because of activities on the Floor. So most respectfully, I urge each of you who will be testifying to summarize your statement if possible to allow time for questions. However, may I assure you, as Chairman of this Committee, that your full statement will be made part of the record.

Our first panel consists of Ms. Jo Jo Hunt, Executive Director of the National Advisory Council on Indian Education; Mr. Roger Bordeaux, Executive Director of the Association of Community Tribal Schools; Ms. Lorena Bahe, Executive Director of the Association of Navaho Community-Controlled School Boards, accompanied by her counsel, Carol Barbero; and the final witness of this first panel, Ms. Karen Funk, a Legislative Analyst for the National Indian Education Association.

Our second panel consists of representatives of the Office of Indian Education. This hearing has been arranged in this fashion to provide the Department with an opportunity to hear the concerns of those Indian people involved in Indian education, and to respond to those concerns.

With that, may I call upon Ms. Hunt, Mr. Bordeaux, Ms. Bahe, and Ms. Funk.

Ms. Hunt.

Senator McCain. Mr. Chairman, I want to thank you for holding this hearing on this very important issue. It is one that I know that the committee will be pursuing, as you mentioned, for quite a long period of time.

For the sake of time, I would like to ask that my full statement may be submitted for the record.

The Chairman. Without objection, so ordered.

[Prepared statement of Senator McCain appears in appendix.]

STATEMENT OF JO JO HUNT, EXECUTIVE DIRECTOR, NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION, WASHINGTON, DC

Ms. Hunt. Thank you, Mr. Chairman. I am very delighted to be here this morning. I have a rather extensive written statement which goes into detail about a number of the things I will talk about, but I will try to keep my comments relatively short so that the other folks, who have traveled much further than I, will be able to make their comments before you.

The National Advisory Council on Indian Education has been in existence since 1973. We currently have 14 members because of a vacancy, but it is a 15-member panel consisting of Indians and Alaskan Natives appointed by the President to make various recommendations. There is a long list of duties in our enabling legislation, but the two key duties here today are to make recommendations to the Congress on improvement in Indian education programs and other programs that benefit Indians and also to provide advice to the Secretary of Education on the operation of programs affecting Indians.

The Council has a very broad view of what this enabling legislation means. We certainly feel that the duties encompass looking at all Federal education programs, not only those that Indians participate in but also those from which Indians may benefit but in which they are not currently participating. We have, therefore, started looking a lot closer at Department of Education programs in general.

We do have a number of concerns about the operation of the Office of Indian Education. These are broken down into several subject areas, with the first being personnel issues.

Upon arrival at the Council in December 1988, we began looking at the Indian preference issue since Public Law 100-297 provided that as of April 28, 1988, the Secretary should use Indian preference in all personnel actions in the Office of Indian Education. There were a number of things going on at the Department on the Indian preference issue, but the Council was not involved with those because we were not made aware of the policy of the Department, even though we requested that policy.

We do have the policy now, and we are not going to make any comments on it at this point because we have not seen it in operation. Should we need to make comments later, we will certainly do so if the Indian preference policy is not working.

Our concern is that there are a number of vacancies at the Office of Indian Education. In January, some seven mid-level management positions were announced. In February, the director's position was announced. We have since had education program specialist jobs announced, some clerical positions, and some senior program specialists. None of these have been filled.

We are also concerned that perhaps because of the personnel problems, the office is not getting grant awards out in time. We are also very concerned about the monitoring efforts. We have a number of non-Indian staff people leaving under the non-Indian preference provisions of Public Law 100-297, so we do have a real personnel problem there.

It is the Council's position that the Department should move immediately to fill the position of the Director of the Office of Indian Education so that person might then select top management staff and get the office on the road to being fully staffed and fully operational.

The CHAIRMAN. May I interrupt as we go along?

Ms. HUNT. Certainly, Mr. Chairman.

The CHAIRMAN. How many employees are in the Office of Indian Education?

Ms. HUNT. Mr. Chairman, I am not sure of the exact total right now. I believe their position ceiling is somewhere between 45 and 50. The departmental people here will be able to answer that fully.

The CHAIRMAN. That includes clerical employees?

Ms. HUNT. Yes; I do not know how many are on board at the moment since some people have left.

The CHAIRMAN. I will be asking the Department, but I wanted your thoughts. Of that number, how many are of Indian ancestry?

Ms. HUNT. Of the permanent employees there, I know of four.

The CHAIRMAN. What types of positions do they hold?

Ms. HUNT. I believe there is one individual who is the Assistant to the Director of the Office of Indian Education, a special assistant. There are two education program specialists and I believe there is one clerical worker.

The CHAIRMAN. And these seven mid-level management positions—how long have these vacancies been in existence?

Ms. HUNT. It is difficult to say exactly about vacancies because they have had people holding these jobs, some of whom have gone on to other jobs under the non-Indian preference provisions, but the vacancy announcements were first posted in January this year to close on February 14. Those same positions were subsequently announced again more recently, so we do not have anyone selected yet.

The CHAIRMAN. I notice that we have an acting director of this division.

Ms. HUNT. Yes.

The CHAIRMAN. When was the last time we did have a director?

Ms. HUNT. We had a Director, Mr. John Sam, until he became ill in 1988 and died in November 1988, I believe. Since then we have had acting people. Out of the last 7 years, about five of those have been acting directors in that capacity. That sometimes leads us to think that the importance of the office is not at the level it should be at the Department, if we always have acting directors in that job.

The CHAIRMAN. What do you mean by mid-management positions? You said there are seven mid-management positions that are vacant.

Ms. HUNT. These are GM-13, 14, and 15 jobs that would be the deputy director and the top-level supervisors in the office.

The CHAIRMAN. These are above the program specialists?

Ms. HUNT. Yes.

The CHAIRMAN. Do we have any Indians in the mid-management or above?

Ms. HUNT. At the present time, no, not that I know of. Of the Indians over there, I believe a GM-13 is the highest. She is the Assistant to the Director.

The CHAIRMAN. Please continue.

Ms. HUNT. We have had some concerns about regulation promulgation by the Department for the programs of the Office of Indian Education. The thing that concerned me most was the fact that the regulations were written in such a way that it was difficult for me, as an attorney with experience in legislation and regulations, to figure out what was going on. Rather than doing an amendment in the nature of a substitute, there were individual amendments striking out certain portions of the current regulations and putting in other things. One had to use four or five reference materials just to figure out what was going on.

We did not get very many comments from the field. I think that the way those regulations were presented and the format was the reason we did not get comments from the field. We made a recommendation, as a Council, to the Department, that in the future any regulations that are extensive should be done in the nature of a substitute.

The CHAIRMAN. May I interrupt again?

Ms. HUNT. Yes.

The CHAIRMAN. This Presidential Council, I presume has a staff. You are a member of that staff.

Ms. HUNT. Yes; I am the Director and we have three other people.

The CHAIRMAN. How often to you meet with the Secretary of Education?

Ms. HUNT. We have met with him on one occasion. That was October 8 in Anchorage, AK.

The CHAIRMAN. Was that by accident or by plan?

Ms. HUNT. It was by plan in that we had been trying since January to get an appointment with the Secretary.

The CHAIRMAN. In the past 3 years, how often has the Council met with the Secretary?

Ms. HUNT. I do not have the answer to that question, Mr. Chairman. I would be happy to find out and supply it for the record. I know that in the past 10 months, it has been once, and that was this month.

The CHAIRMAN. How often have you met with the Director or Acting Director of the Office of Indian Education?

Ms. HUNT. We do that quite often, sometimes by telephone and sometimes in person. Mr. Chairman, I have not had a problem with access to the Acting Director of the Office of Indian Education or the Acting Assistant Secretary of Elementary and Secondary Education. Both of these gentlemen have been available to me when I needed to talk to them about various things. They have been very helpful administratively in pushing the various pieces of paper that need to be pushed for the Council to perform its activities.

The CHAIRMAN. What role do you play in the promulgation of regulations? Are you asked to provide input?

Ms. HUNT. Like the public, we provide comments after the regulations are published for comment in the Federal Register.

The CHAIRMAN. You are just like the public although you are Presidentially appointed?

Ms. HUNT. Yes sir; that is the way it was this year with the promulgation of these regulations.

The CHAIRMAN. Do you feel that your advice and counsel is heard?

Ms. HUNT. If it is heard, Mr. Chairman, there are not a whole lot of changes made. There have not been changes made because of our recommendations with respect to regulations or vacancy announcements or the Indian preference policy.

The CHAIRMAN. What role have you played in the filling of these vacancies? That seems to be a rather crucial matter here.

Ms. HUNT. There has been nothing that the Council has done other than try to scatter vacancy announcements throughout the country, because we were not involved in the preparation of any of those vacancy announcements and certainly not in the selection of anyone, except for the position of Director of the Office of Indian Education. We commented on the vacancy announcement and a few things were changed because of our comments. Of course, we disseminated that vacancy announcement throughout the country and then went through the process of interviewing the candidates and submitting to the Secretary three names as our list of nominees.

The CHAIRMAN. How long has this Office of Indian Education existed?

Ms. HUNT. It was established under the Education Amendments of 1972, so I would think as of 1973, certainly. This Council has been in existence since 1973.

The CHAIRMAN. The Council has been in existence for 16 years?

Ms. HUNT. Yes.

The CHAIRMAN. In those 16 years, have we had any Indians serving in mid-management or above?

Ms. HUNT. Mr. Chairman, we have indeed. I do not have that list with me but I will be happy to supply it for the committee. I have a list of the number of people in the office and the number of Indians. It will not give the information you have just requested, but I am sure we can provide that information for you. From my own personal knowledge, there have been a number of Indians in mid-management positions.

The CHAIRMAN. But not now?

Ms. HUNT. Not now.

The CHAIRMAN. Any director?

Ms. HUNT. Yes; a number of directors.

The CHAIRMAN. How long have they lasted?

Ms. HUNT. In our annual report there is a list of the directors and the period of time that they served. I will provide that for the record. I would think it is 2 or 3 years at the most.

[Material appears in Ms. Hunt's prepared statement in appendix.]

The CHAIRMAN. Please proceed.

Ms. HUNT. One thing that was a little puzzling was that this year with the fellowship applications, we had regulations that had been published for comment. They were not final regulations, yet it appears that the fellowship awards were based on those not yet finalized regulations. I think we probably had some delay in getting those actual dollars out to the students because the regulations were not finalized until July 19.

When you have a program and an award is being made based on regulations that are not yet finalized, you are not likely to get any changes made from comments coming from the public or from this council because everything is already set up to go a certain way. I would hope and the Council would hope that in the future, that kind of thing would not happen; that when an application comes in for any program in the Office of Indian Education, it will come in based on final regulations, not proposed regulations.

The CHAIRMAN. What impact has been felt by the Indian community resulting from this delay in the granting of awards?

Ms. HUNT. We have received a number of calls from individuals who said that their schools were very late in getting started with their Indian education programs this year because of the delay of the formula grant awards. In fact, some schools were indicating that they may lay off personnel.

We have also had comments from discretionary grantees, Indian tribes and Indian organizations, that they were not able to get started with their programs because of the delay. We have had some indication that there were Indian students under the fellowship program who had to make loans while awaiting arrival of the money for their tuition and living expenses.

In Anchorage, we had a number of issues sessions. We had five two-hour issues sessions. In the testimony, Mr. Chairman, you will find a brief summary of various recommendations that came out those sessions from the people themselves.

One that I thought was particularly needed is that the Bureau of Indian Affairs and the Department of Education set up a working, ongoing task force to deal with any problems of eligibility or any other issues that might come up in the transferal of money, for example, from Department of Education to Bureau of Indian Affairs and the participation of BIA and tribal schools in Department of Education programs. I think that this might help us with an issue that has come up in the Even Start Program, where tribal schools and BIA schools have been determined to not be able to participate by the Department of Education because they do not meet the definition of LEA, local education agency.

We have some recommendations coming from this panel on that definition, I believe. It is also dealt with in my prepared statement.

Dealing with some of the other programs at the Department of Education—in our issues session in Anchorage, we heard from people that there should be a two percent set-aside in the Adult Education Act for Indians and Alaska Natives. We also got an indication from them that there should be a needs assessment done of the adult education and vocational education needs of Indians and Alaska Natives. This is certainly something that the Department of Education and the Bureau of Indian Affairs could work together on. We got indications that Indian people want vocational education programs kept at the Department of Education and not moved to the Bureau of Indian Affairs.

One other comment that was made about the fellowship program at our issues session is that the Office of Indian Education should look toward establishing some uniform guidelines for universities in the universities' dispersal of those funds to students. Apparently, it is November sometimes before the student actually gets money from the university because the funds go from the Office of Indian Education to the university; the university takes its tuition money and whatever institutional costs there are, and then provides the check to the students for their food, room and board, or whatever. There has been some delay in those students getting funds from universities, so that is another area that should be looked into.

I have tried to hit just some of the highlights in the testimony. It is an extensive piece of work, Mr. Chairman. It has a lot of criticism of the Department and the Office of Indian Education, but I think we have been fair in that criticism because what is important to us is that the services get to Indian people. Education services have been delayed by the Office of Indian Education this year, so we think that some criticism is indeed necessary.

I do want to emphasize that they have been very helpful administratively for this Council at the Department. However, the bottom line is getting education services to Indian people, and that is what we are most concerned about.

The only other thing I need to mention is that, in the testimony, there are some recommendations on amendments to the legislation authorizing the White House Conference. These are technical amendments. I will not comment on them here but I wish you would take a look at them. I urge the committee to deal with those recommendations.

Thank you very much for your attention.

[Prepared statement of Ms. Hunt appears in appendix.]

The CHAIRMAN. In your October meeting with the Secretary in Anchorage, what was on the agenda?

Ms. HUNT. This meeting came about at the last minute. I had sent over our package of information to the Secretary's office that we would be in Anchorage and would be happy to meet with him at any time. I got a call back saying that he had a lot of things going and was not able to meet with us.

On Saturday evening, our new chairman, Mr. Eddie Tullis, and perhaps some of our other members—I am not sure because I was ill with a problem in my eye and was at the emergency room—handled dealing with the Secretary and his people. They found out where he was staying and made the contact. I was called that evening and told that he would meet with us after his keynote speech and that I should get a room at the convention center, which I proceeded to do.

It was a meeting that was somewhat impromptu, from the direct appeal of our chairman and some of the council members. It did not come about by our working through the Office of the Secretary.

The CHAIRMAN. So you had no agenda?

Ms. HUNT. We had no agenda. He came and talked to us about some of the things he had spoken of in his speech and indicated that he wanted us to provide information to him, which we indeed have been attempting to do this year and will do.

The CHAIRMAN. How long did this meeting last?

Ms. HUNT. It lasted 30 to 45 minutes.

The CHAIRMAN. Did you have any clarification on the role that the Council plays with the Secretary? Does the Secretary consider that you do have a role to play?

Ms. HUNT. He seems to consider that we have a role to play, that of providing information, and we are ready to do that. I might say that many of his comments during his keynote speech regarding the need for data on Indian education certainly was in agreement with what is in our current annual report.

The CHAIRMAN. Is anyone on the panel prepared to provide data to this committee on dropouts and things like that? Who is in the best position here?

Ms. BARBERO. Mr. Chairman, I am not personally aware of any nationwide statistics on Indian dropouts, but about 2 years ago, the Bureau of Indian Affairs commissioned what appeared to have been a target study in the Chinle area of the Navajo Reservation.

That report was performed by a local contractor from Washington, I believe, and one of the items discussed in that report is the dropout rate at each grade level in the Chinle area of the Navajo Reservation. That is the only study I am aware of that would address that question.

The CHAIRMAN. Senator McCain, any questions?

Senator MCCAIN. No, Mr. Chairman.

Senator DASCHLE. Mr. Chairman, I think Ms. Funk had a comment to make.

Ms. FUNK. In response to your question, I do not think there is any reliable national information. The 1980 census will say that of Indian people over age 25, 56 percent have high school diplomas. That is compared to about 67 percent nationwide, but that is 1980 information and not exactly the same thing as a dropout rate. I think it only exists where individual schools or areas do it. I have not seen anything nationwide or comprehensive.

The CHAIRMAN. When the panel is completed, I will be asking one general question to all of you relating to the effectiveness of this program. I would like you to tell us whether you think it is money well spent or wasted or how we can better spend the money.

Did you have any questions, Senator Daschle?

Senator DASCHLE. No thank you, Mr. Chairman.

The CHAIRMAN. May I now call on Mr. Bordeaux.

STATEMENT OF ROGER BORDEAUX, EXECUTIVE DIRECTOR, ASSOCIATION OF COMMUNITY TRIBAL SCHOOLS, VERMILLION, SD

Mr. BORDEAUX. Mr. Chairman, my name is Roger Bordeaux from Vermillion, SD. I am currently a doctoral student in their program of educational administration. I also work part-time as Executive Director of the Association of Community Tribal Schools.

Tribal schools have a little over 12,000 students. By designation as either tribal organizations, Indian-controlled schools, public or private institutions, depending on what definition, they are eligible for a lot of different programs within the Department of Education. We feel that the main problem is, because of these separate designations, we are often stuck at the bottom of the so-called priority list in regard to funding in different areas.

Some programs within the Department of Education come through the Bureau as a set-aside which goes over there, such as chapter 1 and Education for Handicapped funds. There are other programs where we are designated as an Indian- controlled school for title IV set-aside dollars or title V set-aside dollars. In vocational education, there is a 2-percent set-aside, but the majority of those moneys go to the tribe and to adult programs as opposed to the secondary programs we are operating.

What we wanted to say is that the money we get under the Indian School Equalization Program from the Bureau, those basic instructional dollars, should always be considered in everyone's mind as similar to funds that public schools receive from local taxes and from State taxes. That category, basic instruction, could equate to that with everything else in ISEP being categorical funds based on the type of students you have. If a student is handicapped, needing residential services or transportation, those are all additional funds based on the type of student.

That same type of thing should hold true within the Department of Education so that when programs become available through authorization and appropriation from Congress, they can flow to community tribal schools. We think there are two possible ways of doing that. One is to transfer the funds directly to the Bureau and distribute them on the same basis that local education agencies get them, or the other way is to look at all Department of Education programs and ensure that community tribal schools are identified as local education agencies.

About 3 weeks ago, we testified before this committee in regard to the Vocational Education Bill, S. 496, and we specifically said that because the Bureau has been unwilling to match 2 percent that was supposed to go over to the Bureau, our schools and secondary programs of vocational education just do not receive the funds. When the set-aside becomes competitive, most of the dollars go to the tribes and most of them are for adult programs.

We are losing out in a lot of different areas. The main reason is because we happen to receive our basic support from another Federal agency. When that happens, we lose a lot of different programs. We are saying you need to either transfer it all over and make sure the money gets to the school, or in legislation, look at all the education programs and designate community tribal schools as local education agencies.

I have written testimony to be submitted for the record. We talked a little about chapter 1 and chapter 2 and some other things in the written testimony, but our main concern is that our students in our schools are not receiving full advantage of all the programs under the Department of Education.

[Prepared statement of Mr. Bordeaux appears in appendix.]

The CHAIRMAN. Can you provide us with some comparative numbers? For example, how to the Indian students in your system in South Dakota compare financially with non-Indian students in the school systems of South Dakota? On a per capita basis, what are they receiving?

Mr. BORDEAUX. If you take everything in total, it ranges anywhere from $3,000 to $6,000 per student. But like I said before, our base instruction dollars was $2,407.50 per student last year. Depending on whether they were in high school or grade school, if they need special education, if they need transportation services or residential services, then that cost goes up based on the type of student you have and the type of services needed.

If you go for basic instruction, it is a little over $2,400 and it could go all the way to $6,000 or even $8,000 if you happen to have a handicapped child who needs full services. You hear the average per pupil in an Indian school might be $5,000 or $6,000, but you have to discount anywhere from 30 to 50 percent of that, primarily because of the needs of the student. They get all those extra funds based of the services required for them.

I believe that 2 years ago I testified before this committee on a budget oversight hearing and submitted some data in regard to looking at the total student cost in Indian schools and then subtracting all of those categories to give a bottom-line figure of what the school gets per student for basic instruction.

The CHAIRMAN. What was the comparison there?

Mr. BORDEAUX. South Dakota is a bad example. I am sure Senator Daschle knows that South Dakota does not support education very well. In South Dakota, they spend about $3,000 per student in public schools. The base line for basic instruction at that time for the Bureau was a little over $2,000. That is just basic instruction.

Then you have to look at each of the categories because South Dakota does not count the capital outlay funds in their special education dollars when they talk about per pupil expenditures. You have to add those back in and take some things away from the Indian schools. It takes a long process to do that.

What I attempted to do was to show that for basic instruction, we were receiving less per student, but when you add all the categories based on student need, we were getting more per student.

The CHAIRMAN. How much does a school teacher in your school system get paid as compared to the public school system?

Mr. BORDEAUX. If you want to refer to South Dakota, again, that is kind of a bad example. The range in contract tribal schools is from $13,000 to about $17,000 depending on where they are and what type of program they choose to offer. The South Dakota average is just a little over $15,000, but the national average is over $22,000. This is for beginning teachers. If you take the average, it goes up to about $26,000 or $28,000, so there is a difference there, too.

The CHAIRMAN. Senator McCain.

Senator MCCAIN. No questions.

The CHAIRMAN. Tom.

Senator DASCHLE. No questions, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Bordeaux.

May we now hear from Ms. Bahe.

STATEMENT OF LORENA BAHE, EXECUTIVE DIRECTOR, ASSOCIATION OF NAVAJO COMMUNITY-CONTROLLED SCHOOL BOARDS, WINDOW ROCK, AZ, ACCOMPANIED BY CAROL BARBERO, GENERAL COUNSEL

Ms. BAHE. [Remarks given in native tongue.]

My name is Lorena Bahe. I am the Executive Director of the Association of Navajo Community-Controlled School Boards and I am from the great State of Arizona.

The association that I work for is operated by school boards under self-determination contracts or tribally-controlled grants. We refer to the association by the acronym ANCCSB. Our mission is to assist local schools in exercising their self-determination rights in operating the education programs for the Navajo children. We also work with the tribe on important education policy issues. We provide a voice for these school boards in Congress, at BIA, and at the Department of Education on Federal policies that affect the education of Indian children.

Since the focus of this hearing is to discuss the Department of Education and the role they play in Indian education, I would like to share with the committee some major concerns we have from ANCCSB. The first was already mentioned by Jo Jo.

We are really concerned about the selection of the Director of the Office of Indian Education within the Department of Education. Under Public Law 100-297, the director has a new responsibility for developing and coordinating the policies in Indian elementary and secondary education. We are aware that NACIE has submitted a list of nominees to the Secretary to make the final selection.

ANCCSB has reviewed the credentials of one particular person, John Tippeconnic, who is from Arizona. He was one of the candidates that was on the NACIE nomination list and, Mr. Chairman, if you don't mind, on behalf of ANCCSB, we whole-heartedly support Mr. Tippeconnic for the post of directorship. His 20-plus years of experience in education make him an excellent choice for this important job. He was also previously an employee of the Department of Education.

We are really concerned about the continuity in Indian education, especially at this level within the Department of Education. We need to know the people we work with. I think Jo Jo mentioned Indian preference. We need to know, in case of problems, who we contact to rectify our problems.

For example, there have been late funding problems within the tribal schools in reference to the Title VII Bilingual Education Program. The OIE Director involved in coordinating some of these services to Indian children would minimize such problems. ANCCSB would appreciate the assistance we can get from the committee to encourage the Secretary to make the selection of the director as soon as possible.

The other concern that I would like to bring to your attention, Mr. Chairman, has already been mentioned. It is a major concern and I think that ANCCSB has taken the lead in this. That is the eligibility for Even Start Grant Programs. Some of the contract and grant schools had applied to get Even Start funding and they have been disappointed because they were not eligible for the grants under the new Even Start Program.

Even Start was created under Public Law 100-297. It is designed for preschool children where parents have limited educational achievement and limited English proficiency. Congress has finally realized that parents are the first teachers of children. This family-oriented education program is to equip the parents to contribute to the early learning of the kids.

In essence, the program gives younger kids from these target families an even start with all the other children from educationally advanced families. This program is of great value to Indian reservation communities because we do have a high percentage of Indian parents who have not finished high school. In many parts of Indian country where native languages are spoken in the home, parents are often not proficient in English.

I know this is the case in many of the households on the Navajo Reservation where I grew up. My family spoke Navajo. My brothers, sisters, and I learned English at school. So I think this program is very beneficial to Indian parents. Why then are we not eligible as tribal schools and contract schools and BIA schools for this type of grant?

In other statutes, Congress has put in set-aside portions of the grant funding for Indian schools. We suggested that they draft an amendment to Even Start, which was already mentioned by Jo Jo, where all Indian tribes and Indian schools operated by the tribes or tribal organizations be eligible for Even Start Programs. We seek the committee's support and advocacy on this amendment.

If you have any questions, I have my counsel here. We have done some extensive work in drafting the amendment. What the amendment will do is allow the tribes and tribal organizations to compete equally with the public schools for Department of Education grants.

In the years when Even Start appropriations are less than $50 million, the tribal and BIA schools will compete. When the funding is over $50 million, then the current law requires that there be a block grant made directly to the States who will then make grants to the individual school applicants.

The Indian amendment we are recommending would create an equivalent to the block grant for Indian applicants. The Department of Education would administer the funds that are set aside for this purpose.

We would like to see the Even Start amendment enacted as soon as possible so that the Indian children across the nation have a chance to benefit from this program in 1990. We suggest that perhaps the amendment could be added to the Vocational Education Bill that you mentioned, Mr. Chairman, which is being considered by the Senate Labor and Human Resources Committee. We would appreciate any assistance that this committee can provide in regard to incorporating this amendment into that bill.

The other thing is that Even Start is only one example of the Federal education grant programs that are closed to Indian schools and Indian tribes. The Department of Education interprets the statutes as excluding Indian schools and Indian tribes from eligibility. It is for this reason that we asked the Department, several weeks back, to survey each of its elementary and secondary grant programs and indicate whether or not the Department deems Indian schools or tribes eligible or ineligible applicants. We have not heard anything from the Department regarding this survey. If a statutory amendment is necessary, we hope that we can count on this committee to support that.

Mr. Chairman, the Indian Education Committee also thanks this committee for designing the Public Law 100-297 statutory framework for the White House Conference on Indian Education. We look forward to helping in the planning and participation of this important event. Public Law 100-297 authorizes funding for the conference in fiscal year 1990.

There is a problem which we need the committee's help with. That is that Congress, with the help of Senator DeConcini, has agreed to appropriate $500,000 in fiscal year 1990 to begin the conference planning. However, this is still not enough; it is not sufficient. We ask that the committee take steps to amend the law to authorize appropriations of funds in fiscal year 1991, which was not included. According to the law, 1991 is the year that requires the President to call this conference to order.

Mr. Chairman, it is a pleasure to appear before you today, to come in from the local level. I work with school boards and schools on the Navajo Reservation. I enjoy my job and I feel obligated to educate my own people in discussing and reviewing some of the legislation that comes from the national level. I do a super job of translating all of that into my own Navajo language and I also come up here to represent them on their behalf.

I will be happy to answer any questions. Thank you.

[Remarks given in native tongue.]

[Prepared statement of Ms. Bahe appears in appendix.]

The CHAIRMAN. Thank you very much.

On the matter of Even Start—in rejecting your application, did the Department make any attempt to assist you so that you could qualify?

Ms. BAHE. No; we had requested that they give us a survey of the programs that we would be eligible or ineligible for grants on. Maybe Carol could respond to that since she has given us some assistance with that.

Ms. BARBERO. Senator, when the Department returned the applications filed by tribal schools or by tribes, they just indicated that in the Department's view, they did not qualify as a local education agency and were therefore ineligible. It was only after we made overtures to the Department to ask them to change this interpretation or in some fashion recognize that tribal schools should indeed be eligible and sat down to a meeting with their General Counsel staff that they then agreed that they could perhaps draft an amendment to the statute, which in their view would overcome the eligibility problem that they have with the current law.

The CHAIRMAN. As a naive Member of Congress, I would assume that if we establish an Office of Indian Education, then that office would have as its one goal the improvement of education among Indian people, to improve its efficiency, and to make certain that Indians can enjoy a high quality of life. As such, this office should serve as an advocate.

Do you believe that the Office of Indian Education has been serving as an advocate for Indian education?

Ms. BARBERO. Senator, I have no information with which to answer that question. Frankly, I do not even know if the advice, counsel, or input was even sought from the director or anyone else in the Office of Indian Education when this Even Start question was addressed.

It seems to me that, under the statute, that would have been an appropriate and fully sought after view since the statute gives the director of that office the responsibility to coordinate departmental policies and practices regarding elementary and secondary education. It seems to me that would have been a perfect role or perfect place for the director to be brought in.

The CHAIRMAN. Ms. Bahe, do you believe that the office has served as an obstacle or an assistance?

Ms. BAHE. We do get some assistance from the Department of Education, but in this category with the issue of Even Start eligibility, we have not received any type of assistance. I think we do have the right to be provided with technical assistance if we are ineligible.

From the day that they got hold of these proposals from the Navajo schools, they should have helped us out and given us a waiver or whatever is necessary so that these contract schools are eligible. It is very important. I think it is a good program, a good provision that was put into Public Law 100-297, and we could really use it.

The CHAIRMAN. Thank you very much.

Ms. Funk.

STATEMENT OF KAREN J. FUNK, LEGISLATIVE ANALYST, NATIONAL INDIAN EDUCATION ASSOCIATION, WASHINGTON, DC

Ms. FUNK. Thank you. I would like to extend Lorena Buhe's answer on your question about the Office of Indian Education.

One basic concern is that the office has been so focused on title IV, what we now call title V, Indian Education Act programs, which of course they must do. That is important. But their statutory mandate is much broader than that.

I know NIEA feels very frustrated when we see the Indian Education president and the drug czar and everybody else come up with their big national education and drug proposals that usually totally ignore Bureau-funded schools and Indian tribes. The Office of Indian Education should play a more aggressive role and, frankly, not wait to be asked for their opinion when they know that within the administration there are major policy initiatives being formulated. It is much easier to deal with something, as you know, before it hits the streets than to try to amend it afterward. That would be my general comment on the office.

The NIEA testimony contains a lot of the points already made here today so I will just highlight a couple items. I would like to point out the enormous effect of the Federal education budget on Indian schools. People frequently point out that the Federal share of spending for education is just 7 percent. I am sure that is correct, but for a Bureau-funded school, it is 100 percent. For a public school with a large number of native students, which has as a huge part of their operating budget the Impact Aid program—and there are public schools on reservations with nearly 100 percent native population—a cut in Federal education spending or a Gramm-Rudman sequestration has a totally different effect than on, for instance, a school in Montgomery County.

When Gramm-Rudman was passed, there were unsuccessful efforts made to protect Indian education programs from across-the-board cuts for that very reason. If there would ever be an opportunity to include Indian education in the protection of Gramm-Rudman along with some of the other programs that are protected, that would be very helpful.

I just returned from Anchorage and the National Indian Education Association Conference at which Secretary Cavazos spoke. Jo Jo Hunt made reference to this—the Secretary did announce two initiatives in his keynote address. One was that there would be created an Indian/Alaskan Native education data base, and we really do support this. It is something people have been advocating for years.

Very often our data is old or not in the form we need it. We can not break out tribal from urban statistics. A lot of information that you get from the Department of Education is broken down into White, Black, and Hispanic. Then there will be an asterisk and under that it says, "Hispanic means everyone who is not Black or White." That information is not of a lot of value to us when we are trying to make plans or advocate. So we really do welcome the creation of an Indian/Alaskan Native data base.

We do want to coordinate the creation of a data base with any efforts that might already be underway. We do not see any reason for efforts to be duplicated. One matter in particular is research on the high school dropout rate. The National Education Association and Arizona State University have been planning throughout the course of this year to undertake that project; to do a survey of the Indian/Alaska Native dropout rate. Obviously, we would encourage the Department of Education to talk with these organizations and coordinate and make their efforts complimentary.

The rest of our testimony focuses in one way or another on the issue of access. I will not repeat all our written testimony. We are very eager to see the survey from the Department of Education and I believe is nearly complete—where they go through all the grant programs in the division of elementary and secondary education and indicate which ones they believe Bureau-funded schools are eligible for, which ones not, and which ones where legal clarification is needed.

Sometimes the law is silent or vague and sometimes it is explicit regarding eligibility of Bureau-funded schools. It has led to a lot of confusion.

I read the Federal Register every day and I dutifully call the number listed every time I see a grant that I think a tribal school may be eligible for. It is usually a big waste of time because you get transferred about 10 times trying to find out the answer as to whether Bureau-funded schools are eligible or not. Sometimes by the way, I also have this same experience regarding whether tribal colleges are eligible as institutions of higher education to apply for various grants.

In our testimony, we went into three laws that we would like to see amended to provide better access to tribes and tribal organizations. They are the Vocational Education Act, which your committee is being very helpful in improving; the Adult Education Act, which we believe needs a 2-percent tribal allocation, and the title III act, which is the Developing Institutions Act, in which we believe tribal colleges should have a separate allocation of funds, as do historically black colleges.

Finally, I would end by saying that NIEA would like to see some kind of initiative on the issue of fetal alcohol syndrome, to deal with issues of curricula in schools, identification of students who may be FAS or FAE affected, and counseling and teaching techniques for FAS and FAE students. There really is not enough known about this and we probably are misdiagnosing many students and treating them in inappropriate ways, Because we do not understand the source of their problems.

Thank you.

[Prepared statement of Ms. Funk appears in appendix.]

The **CHAIRMAN**. Thank you.

Ms. Bahe, may I ask a few questions about the Navajo school system?

Ms. **BAHE**. Yes.

The **CHAIRMAN**. How many schools do you have that are community-controlled?

Ms. **BAHE**. Mr. Chairman, there are approximately 18 contract and grant schools on the Navajo Reservation and 70 BIA schools.

The **CHAIRMAN**. So that is 88?

Ms. **BAHE**. Yes.

The **CHAIRMAN**. Of the 88 schools, are all the principals Indians?

Ms. **BAHE**. No.

The **CHAIRMAN**. What percentage are Indians?

Ms. **BAHE**. With the contract schools and tribal schools, more than 50 percent are Indians. We only have 4 out of the 13 schools that I work with who are non-Indians. I do not have the statistics on the Bureau schools.

The **CHAIRMAN**. Are most of your teachers Indians?

Ms. **BAHE**. In the tribal schools and contract schools, I would say it is about half and half. There is a great shortage of Indian teachers, and I think that is common in every Indian reservation. We do have a shortage of native teachers.

Several years back we had an excellent program that was initiated and funded out of the Bureau, a teacher training program. I, myself participated in that program and it was excellent. Most of the teachers that have participated in that program are still teachers on the Navajo Reservation.

The **CHAIRMAN**. Are all of your teachers recipients of baccalaureate degrees?

Ms. **BAHE**. Yes; I believe so, in the Bureau funded schools. In the contract and tribal schools, we do have a few who are still working at getting their credentials.

The **CHAIRMAN**. Tom.

Senator **DASCHLE**. Thank you, Mr. Chairman.

I would like to commend the committee staff and many others who were involved in the markup yesterday of the Vocational Education Bill. I think it was probably one of the best examples we have seen recently of really cooperative effort in trying to address some of the concerns raised by our fine witnesses this morning.

I think we have come up with a piece of legislation that takes us farther than we have been before. It certainly does not get us to where we want to be, but it takes us farther than we have been before.

For the record, Mr. Chairman, I think that it is important that we cite the leadership of this committee under your tutelage as well as the involvement of so many of the committee staff involved in that effort.

Ms. Funk mentioned fetal alcohol syndrome. There is a book that has been published "The Broken Cord", which addresses this, and I highly recommend it to committee members and others. I think it probably focuses on this issue more effectively than any other book that has been published or written.

It makes an alarming report with regard to the number of cases in our school system today. I am told we could be experiencing numbers as high as 25 percent of those students who attend school today who are suffering in varying degrees from fetal alcohol syndrome. If that is the case, Ms. Funk's point needs to be emphasized and considered in as many ways as possible.

Your question was an appropriate one: How much do we spend on Indian education per capita; how much do our teachers get? But if I hear one lament about education in this country today, it is that we are asking education to do more than teach. We are asking education to play many roles today.

To the extent that that is true in non-Indian communities, it is even more true on the reservation and in Indian communities. In my view, Indian schools are being asked to be the teachers, the parents, the role models; they are asked to do many things that probably undermine a reasonable judgment with regard to how much we are spending and we use that as any measure of comparison with regard to what is being spent on non-Indian schools.

The fact is that we are not spending nearly enough in addressing the non-educational parts of the agenda and the responsibilities that we put on schools today. "The Broken Cord" and other studies that have been done with regard to fetal alcohol syndrome just give us one additional glimpse of the monumental problems we are facing here.

For the record, I think that it would be important for someone to give us an appreciation of the percentage of people who actually attain the 12th year in school today in Indian education. Can anyone give us that figure off the top of your head? What is the attainment level?

Mr. BORDEAUX. I could give you a good guess based on experience. I worked at St. Francis Indian School for 10 years as their executive director and then worked in other Federal programs.

On an average, we used to get approximately 50 to 60 students coming into our system as freshmen. Our graduation rate usually ranged between 30 and 40. If that is any indication of anything else, you could say somewhere between 50 and 65 percent of those who start high school complete through the 12th grade. That was just at this one school.

Senator DASCHLE. That would be my understanding, that it is somewhere between 50 and 60 percent. That means that with whatever resources we can provide to students, we lose out on perhaps as many as 40 percent who do not even stay in school, who then even further compound the problems we are facing in trying to address the real responsibilities that we put on the shoulders of those involved in Indian education today.

I have a question about a completely unrelated issue relating to the community college jurisdiction, as to whether it ought to go into the Department of Education, given many of the things you said today, or whether it ought to stay in BIA.

Roger, you probably have a better sense of that than anybody, but what would be your advice to this committee? Should we encourage the transition out of BIA and into the Department of Education when it comes to community colleges?

Mr. BORDEAUX. This is just a personal opinion, you know. There is no way I can speak for the community colleges and I am sure that AIHEC would be more than willing to tell you their answer.

Senator **Daschle**. What is your answer?

Mr. **Bordeaux**. I think that regardless of where the money flows through, those dollars have to get to the schools in the best way possible. The way that the Community College bill is written right now, there is not much in the way of administrative duties that the Bureau is responsible for.

The problem is that Congress, in their appropriations and requests that come from the Bureau, have decreases. Everybody knows it went from $3,000 to $1,800 per Indian student. It is not necessarily the administration part of the program; it is just that the budgetary documents that first came out from this administration and past Administrations has shown that decrease over the years.

When you try to compare, like I said, some programs are operated well in both institutions and others are just horrible. It might be that when the White House Conference comes up, they might determine that there is a need to set up a separate agency to handle all Indian programs, away from all departments, setting up something similar to the Tennessee Valley Authority or something like that. That is one of the options that may have to be looked at.

Senator **Daschle**. So to the question: do you support transfer, I am not sure I heard a yes or a no in all that.

Mr. **Bordeaux**. Right now, I will say no.

Senator **Daschle**. You wouldn't support transferring from BIA?

Mr. **Bordeaux**. No.

Senator **Daschle**. Jo Jo, would you care to address that question?

Ms. **Hunt**. I think that we are in a situation where we are not the appropriate people to ask that question. The college presidents should be asked that. I have heard none of them make any mention at all of moving their program from the Bureau of Indian Affairs, so at this point, I would say no, until such time as those presidents say that indeed it ought to be moved.

Senator **Daschle**. It may not make much difference if we do not have better resources and top-level personnel administering the programs. Whether you change the alphabet at the top or not is probably irrelevant.

The point you make about resources and how much money we spend on students—that ought to be the major question, I suppose. I know that it is an interesting jurisdictional question at this point, and I have not heard much from the Indian community on this. Your responses are very helpful

Thank you, Mr. Chairman.

The **Chairman**. My question to the panel is: Has the program administered by the Office of Indian Education been effective in your view? Has it provided a better standard of living for Indian people? Has it increased the educational level of Indian people?

Ms. **Hunt**. Mr. Chairman, I have been involved in Indian education legislation for a number of years and have watched the programs under the Indian Education Act. Now, off the top of my head I can answer that, yes indeed, these programs have been effective. We have more doctors, lawyers, engineers, and so on and so forth because of that program. I think that we probably have more students remaining in school and getting their high school diploma and going on to college.

The problem is that we do not have the data. We do not have the statistical information to say that in 1971, prior to this program, this is how many graduates we had, and now after 16 years of the program in 1989, this is how many we have. That information is just not available. We are encouraged that the Secretary of Education is moving on a data base.

One thing that I think should happen at the Office of Indian Education to make their programs even more effective would be an emphasis on teacher training. Our tribal colleges issues session in Alaska brought that point up. It has been mentioned here. We indeed have a shortage of teachers.

With other dollars available to go to medical school or to law school or whatever, a lot of bright students are going into those fields rather than going into teaching. We need an emphasis on getting Indian and Alaskan Native teachers to provide educational services and to serve as role models for Indian students. I think that an emphasis in the Office of Indian Education would help that area as well as the overall effectiveness of the program.

The CHAIRMAN. When you speak of a shortage of teachers, is it an overall shortage or do you find that there are many Indian teachers who are teaching in non-Indian schools?

Ms. HUNT. I think there is an overall shortage. Almost everywhere I go someone is saying, "We need teachers; we are looking for an Indian teacher for this particular program, and there are none available." So it is an overall shortage.

Arizona State University is where Dr. Tippeconnic is working. I believe that he worked on some sort of study that was showing that now we have a smaller percentage of Indian teachers than ever before in recent times. Other programs are available and people are going into those areas with no emphasis on teacher training.

The CHAIRMAN. Do you have any thoughts on the effectiveness of our program, Ms. Bahe?

Ms. BAHE. Yes, Mr. Chairman. I have been very fortunate to be selected to help in drafting the memorandum of understanding between the Department of Interior and the Department of Education.

We were involved in 2 or 3 days of very intensive review of the agreement. We had called the committee of practitioners together, which is like a task force, and I was a member of that task force. We drafted some very good recommendations.

When it got back to the Department level, there were some things that were totally eliminated and most of the recommendations were not accepted. Then I began to see some of the problems that affect the local schools and affect people like us from the field.

There is no effective coordination from the Department of Education to the Department of Interior. You have two departments that deal with Indian education programs. I feel that if there was a strong, effective coordination between these two departments, some problems could be eliminated. It could have been more effective if these two departments could work closely together. That is all I ask of the committee.

There are some good programs in both departments, successful programs. We still need some other programs to deal with the teacher shortage, student achievement, and there are many, many problems that still exist at the local level. Those problems need to be addressed, and these two departments need to work very closely together with more local input.

The CHAIRMAN. Ms. Funk.

Ms. FUNK. One part of the Indian Education Act that I hear a lot of good things about is the adult education portion component. It is not a very large program, but the Indian Adult Education Association did pick several of the programs and analyze them in terms of people successfully completing a GED because of that program, getting a job, their income, and various other indices of what had happened to them.

They picked a program in Boston and several others that were very divergent, and they really found stunning examples of people's ability in completing the program, getting GEDs, and getting jobs. Within a couple months, I think the average income rise was $5,000.

There are all kinds of things that can open up to you if have a high school diploma versus if you do not. The adult education portion of the title V program used to be funded on a 3-year staggered basis. Then they were changed to 2 years, and that really created a problem.

For Native people or for any person who is learning to read and write and at the same time trying to get a high school diploma or a GED, 2 years just was not long enough. People would come to the end of the 2-year program and not have yet completed their GED.

We do appreciate the assistance of Neal Shedd and whoever else was responsible for changing that around this year. They just very recently put the Adult Education Programs back on a 3-year staggered basis. That is one portion of the program that really deserves some more support.

The CHAIRMAN. Mr. Bordeaux.

Mr. BORDEAUX. In answer to your question on effectiveness, I believe it was in 1984, which was 10 years after St. Francis operated title IV programs through the whole period, we submitted testimony to one of the subcommittees on education and labor outlining all of the programs that we got funded under title IV, part A and part B, and what types of programs these things did. If those types of things were done in other areas, it would show a high rate of effectiveness in regard to providing programs for specific services.

We were able to start programs in business occupations. We were able to start vocational education. At that time, in the early seventies, we were even able to start some basic supplemental programs in language arts and supplemental programs in physical education. We did not have a program at all for the students at that time because it was prior to ISEP, so we had to come in every year to ask Congress for dollars instead of going through a formula.

There were a lot of other programs that were available that we applied for and started initially under title IV, and then eventually, took over under the regular program. In regard to the question on teacher shortages and those things—I am in the process of completing an evaluation for a couple of community colleges in regard to teacher education programs. At the elementary level, especially in South Dakota, those colleges are doing a lot in regard to preparing Indian teachers.

There is indeed a shortage of Indian teachers at the secondary level. I think that if you look at most of the Indian schools, maybe 25 percent of the secondary teachers are Indian with 75 percent being non-Indians. The reverse is probably true at the elementary level.

For administrators, a lot of times the teachers will come in and work for 2 or 3 years and they might be good teachers, but they see that opportunity to move up, so they go into the principalship or some other administrative field. You might lose a good teacher, but you are going to hopefully gain a good administrator. But as long as I can remember, that shortage has always been there.

The CHAIRMAN. Thank all of you. All of you have been unanimous in your concern over the vacancy of the directorship.

The Navajo have submitted a recommendation. Where did you submit your recommendation, to the President? Who received your recommendation? You mentioned a person earlier that you recommended for the directorship.

Ms. BAHE. That is Dr. John Tippeconnic.

The CHAIRMAN. Did you convey your thoughts to any person other than this committee?

Ms. BAHE. This is the first time.

The CHAIRMAN. Did you write to the President of the United States?

Ms. BAHE. Yes.

The CHAIRMAN. And to the Secretary of Education?

Ms. BAHE. Yes.

The CHAIRMAN. Does the Council have any recommendation?

Ms. HUNT. We have submitted three names to the Secretary.

The CHAIRMAN. Can you share them with us?

Ms. HUNT. I can share the three names. I have discussed with Assistant Secretary Bonner and have promised him that we would not share the name that he told me went forward from the Secretary to OPM, but the three names that the Council submitted to the Secretary—they were rank ordered—were Dr. John Tippeconnic, Mrs. Lucille Dawson, and Mr. Purnell Sweat.

The Council interviewed six people and these were the three names that went forward, and in that order of recommendation, top to bottom. It was a top choice and first and second alternate.

One last thing, Mr. Chairman. You had asked me a question about the people in the position of Director of the Office of Indian Education over the past few years.

I have a chart that provides that information for the last 10 years. There is other statistical information, the best that we could pull together from available data on the status of Indian education. That is in our annual report.

I would like to submit this copy for the use of the committee until such time as they are printed. They are at the printer right now.

The CHAIRMAN. Thank you all again. We appreciate this and if we may, we would like to submit questions to you in writing for your consideration.

May I now call upon the Acting Assistant Secretary of the Department of Education, the Honorable Dan Bonner. Secretary Bonner will be accompanied by Mr. A. Neal Shedd, the Acting Director of the Office of Indian Education and Mr. Thomas Corwin, Director of the Office of Planning, Budget and Evaluation.

Mr. Secretary.

STATEMENT OF HON. DANIEL F. BONNER, ACTING ASSISTANT SECRETARY, FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION, WASHINGTON, DC, ACCOMPANIED BY A. NEAL SHEDD, ACTING DIRECTOR, OFFICE OF INDIAN EDUCATION; THOMAS CORWIN, DIRECTOR, ELEMENTARY, SECONDARY, AND VOCATIONAL ANALYSIS DIVISION, OFFICE OF PLANNING, BUDGET AND EVALUATION

Mr. BONNER. Mr. Chairman, if it is all right with you, I would like to be allowed to read my prepared remarks, which are relatively brief.

The CHAIRMAN. All right.

Mr. BONNER. Mr. Chairman, I am happy to be here today on behalf of Secretary Cavazos to discuss matters pertaining to programs in the Office of Indian Education as well as other programs that benefit Indians and are administered elsewhere in the Department of Education.

In your letters to Secretary Cavazos requesting this hearing, you listed several issues that you wished to discuss. I will address each of those issues in turn.

The Office of Indian Education administers a wide array of programs authorized by the Indian Education Act of 1988. These programs currently receive a combined appropriation of $71.4 million. The bulk of the funds, about $52 million, is distributed by formula primarily to public school districts, but also to tribally-operated and Bureau of Indian Affairs schools.

The amount of funds going to each district or Indian school is based on the number of Indian children enrolled. These funds are used to supplement the regular school program by providing educational services designed to meet particular needs of the Indian children. Local projects are characterized by an especially high level of parental involvement.

Your letter of October 4 raised a concern about the timing of the 1989 formula grant awards. It is true that awards were made later than usual this year. The cause of the delay was related to reauthorization of the program, including the newly authorized eligibility of BIA-operated schools.

However, notification letters were mailed to all grantees by August 11th. Further, to ensure that there would be no lapse in services from one fiscal year's grant to the next, the Department authorized grantees to expend funds for appropriate pre-award costs.

For school districts with special problems, we faxed copies of grant award letters confirming this authorization. All fiscal year 1989 funds were obligated by the Department before September 30, 1989. Now that the Department has implemented the provisions of the 1988 reauthorization, this delay should not recur.

In addition to the formula grant program, the Indian Education Act authorizes several competitive grant programs. The $18 million for these programs are provided primarily to tribes, Indian educational organizations, and colleges and universities. They support such activities as early childhood programs, dropout prevention, adult education, technical assistance to grantees, training of Indian teachers and school administrators, and fellowships for graduate and undergraduate students.

Your letter of October 4 also questioned the timing of the fellowship awards. The statute governing this program requires the Secretary to provide written notification to fellowship recipients no later than 45 days prior to the beginning of the academic term. The Department complied with this requirement. The actual obligation of funds could not take place until after July 19 because regulations implementing the newly reauthorized program were not final until that date. This was due in part to the delayed effective date provisions of the General Education Provisions Act.

In addition to the programs authorized by the Indian Education Act, the Department of Education administers many other programs that provide educational services to Indians. Indian students participate in most of these programs on the same basis as the rest of the population—that is to the extent that they meet eligibility criteria related to educational need.

The programs are generally targeted to public schools and include, for example, the chapter 2 block grant, the Drug-Free Schools and Communities State Grant program, education for homeless children and youth, bilingual education, magnet schools, migrant education, the chapter 1 LEA grant program, many of the special education programs for the handicapped, and a host of small discretionary programs.

In addition, several of the Department's programs contain set-asides of funds specifically for Indians—usually those attending Bureau of Indian Affairs 'schools. In accordance with your request, we are providing the committee with detailed descriptions of these programs, including budgetary and organizational information.

These include vocational education, compensatory education programs authorized by chapter 1, mathematics and science education, library programs, drug-free schools and communities, Education of the Handicapped Act, Part B, and programs for handicapped infants and toddlers. In addition, many public schools enrolling Indian students receive funding from the Impact Aid program.

In March of this year, the Office of Indian Education began a new coordination effort by holding a 2-day conference to share information among OIE staff, coordinators or directors of State Indian Education programs, managers of set-aside programs for Indians, and directors of the Indian Education Regional Resource Centers. Because the office is newly authorized to coordinate the development of policies and practices for all Department programs serving Indians, we have created a new staff position to aid coordination of policy development among those programs.

Additionally, staff of OIE are working with an informal interagency committee to conduct a policy review of each agency's Indian programs, and they also have membership on the White House Task Force on Indian Affairs, which meets monthly. The Task Force is chaired by Mary McClure, Special Assistant to the President for Indian Affairs.

The remaining issues addressed in your letters, Mr. Chairman, concern the administration of the Office of Indian Education—namely, appointment of a director for the office, filling other staff positions, and implementing new statutory provisions that require the application of Indian preference.

The Director of the Office of Indian Education is a career position in the Senior Executive Service. Following the death of the previous director, Mr. John Sam, the Department advertised the position and evaluated the applications in accordance with Office of Personnel Management procedures. Next, as required by the Indian Education Act, a list of qualified applicants was submitted to the National Advisory Council on Indian Education, which in turn gave the Department its recommendations.

I would like to break from these prepared remarks to return the gracious comments that Jo Jo Hunt made about the activities of the Acting Assistant Secretary and the Acting Director of Indian Education. She has been most gracious herself in our dealings with her.

I personally interviewed each candidate and submitted my recommendations to the Secretary. At this point, we received a number of allegations concerning some of the candidates. These allegations were turned over to the Department's Office of Inspector General for investigation. The hiring procedures have been suspended until the investigations are complete. Secretary Cavazos and I are quite anxious to have this position filled, and we are working diligently toward that end.

On the matter of fully staffing the Office of Indian Education, we are moving ahead and expect to have choices made on several newly created mid-level management positions next month. Selection certificates were submitted to us on Tuesday, October 24. There were eligible Indian applicants for each vacancy.

As you know, the reauthorized Indian Education Act of 1988 requires the Department to apply Indian preference in filling all positions in the Office of Indian Education. It also requires that non-Indian members of the staff be given a one-time preference when they apply for positions outside the office. Because we have had no previous experience in implementing such preferences and because the legal ramifications are complicated, it has taken a while to develop the policies and procedures to implement the new requirements. However, we have done that and we are currently applying the preference policies in filling all of the vacancies.

On a personal note, Mr. Chairman, 2 years ago the Department of Education was very fortunate to hire Mr. John Sam as Director of the Office of Indian Education. Mr. Sam brought to that position a wealth of experience and talent, as well as a deep and personal understanding of the educational needs of Indian children and adults.

Because he believed that the office was not administratively organized to produce the best possible delivery of services, Mr. Sam proposed a new organizational structure. Among other things, that new structure created several badly needed mid-level management positions that will help put the office on a sounder management footing and will provide opportunities for professional growth among Office of Indian Education employees. Although John died before he was able to hire new staff, it is his reorganization that we are implementing, and the positions for that reorganization that we are in the process of filling.

Mr. Chairman, I would like to close by assuring you that Secretary Cavazos has placed the improvement of educational opportunities for Indian students high on his list of priorities. In fact, soon after becoming Secretary, he and Interior Secretary Lujan traveled west together to visit schools attended by Indian children.

Secretary Cavazos returned convinced that a tremendous amount of work and commitment is necessary if we are to improve learning conditions for these children. He is also convinced that cooperation between our two agencies is essential. We believe that we are establishing a good record of cooperation and coordination with the Department of the Interior's Bureau of Indian Affairs.

We have negotiated memoranda of agreement to transfer funds under the Drug-Free Schools Act, chapter 1, and other programs to bring the benefits of these programs to children attending BIA and contract schools. The Office of Indian Education has been working closely with the Office of Indian Education Programs at the BIA, and this year for the first time, as required under new provisions in our reauthorized legislation, we have transferred $2.6 million to BIA schools for supplemental services under subpart 1 of the Indian Education Act. We are making every effort to back up these dollars with technical assistance services from our staff and our five regional resource centers.

Mr. Chairman, I have given you an overview of programs within the Department of Education that benefit Indian children and I have tried to address each of the concerns of the committee as stated in your letters to Secretary Cavazos. My colleagues and I will be happy to answer any questions you may have.

[Prepared statement of Mr. Bonner appears in appendix.]

The CHAIRMAN. I thank you very much, Mr. Secretary. I realize that the Inspector General has not submitted his report as of this moment. Do you have any indication as to when this report may be forthcoming?

Mr. BONNER. I fear to tell you that I do not. The Inspectors General are an independent lot, as you know. We have let it be known that we are most interested in having a speedy resolution.

The CHAIRMAN. Several of the witnesses in the first panel were quite concerned that Indian schools are not eligible as local education agencies for programs which benefit other schools in that area. Why is that so?

Mr. BONNER. I believe—in the context of Even Start?

The CHAIRMAN. Yes.

Mr. BONNER. If I am not mistaken, Even Start is what has brought this matter to a head.

The schools are not considered within the framework of the statutory definition of local educational agencies. To the extent that they are not, they are, you might say, by an unfortunate application of definition, unfortunate but necessary in the circumstances, not considered eligible.

The CHAIRMAN. Apparently that definition hampers their receipt of benefits in other programs, too, isn't that correct?

Mr. BONNER. Yes sir.

The CHAIRMAN. Have you made any attempt to amend the definition so that Indian schools may qualify?

Mr. BONNER. Addressing the Even Start situation, I would say this much. An effort is being made now to repair this. It was brought to the attention, of course, of the Department.

The Department has conferred very carefully, long and hard about the exclusionary nature, which in Public Law 100-297 may very well have been a totally unfortunate oversight. The minute that came to light, we began to work, and I understand that Congress has been working hard to see what can be done about the matter.

I would invite Tom Corwin to make further remarks on that.

Mr. CORWIN. As members of the previous panel noted, we have worked with some of the Indian groups on developing statutory language that could be introduced as an amendment to the Even Start legislation. We are also developing a program by program listing for all the 180 to 200 programs that we have in the Department, showing the status of different entities that serve Indians, such as the BIA schools and the tribal contract schools.

We are not quite finished with that yet. When it is completed, I do not believe that there is going to be a finding that there are major programs in the Department for which Indians cannot participate. As you go across the list from chapter 1 to special education, rehabilitation services, and so forth, generally, Indian children and adults are served through the general State programs. Those in the BIA schools are often served through a special set-aside that is transferred to the BIA.

But we are working on that. We are taking a careful look at our programs, and we will finish it pretty shortly.

The CHAIRMAN. Is it possible to cure this problem administratively, or do we have to go through the statutory route?

Mr. CORWIN. Our opinion is that it will take an amendment in the Even Start legislation. This went to very high levels in our General Counsel's Office. Our senior lawyers looked at it and found that, clearly, the Indians were not eligible. So technical assistance or administrative changes would not have done it.

The CHAIRMAN. As you noted, all of the panelists were concerned about vacancies. How many positions are authorized in the Office of Indian Education?

Mr. BONNER. There are 45.

The CHAIRMAN. Of that number, how many are vacant at this time?

Mr. BONNER. At this time, 17 sir.

The CHAIRMAN. Of the 28 positions that are presently filled, how many are filled by Indians?

Mr. BONNER. I believe the number is five.

Mr. SHEDD. That's right. Counting the acting director, it is five.

The CHAIRMAN. What sort of positions are these? Are they administrative, mid-level, or clerical?

Mr. SHEDD. You have the acting director, the staff assistant to the director, two education specialists, and one clerical.

The CHAIRMAN. I have just been told by you, Mr. Secretary, that these positions are now in the process of being filled. Do you believe that this level of Indian involvement will increase?

Mr. BONNER. Emphatically so.

Mr. CORWIN. We are following the provisions of Indian preference that were added to the law in 1988.

Mr. SHEDD. And, Mr. Chairman, we advertised these seven mid-level positions a second time and doubled the number of Indian applicants that are eligible.

Mr. BONNER. It is a matter of what one understands to be the total commitment in the Department to making that Indian preference provision work, and that is total.

The CHAIRMAN. From your vantage point, what do you consider the role of the council that Ms. Hunt is Executive Director of? What role does it play in relation to your office?

Mr. BONNER. It provides to us its expert knowledge of the Indian communities, most specifically, Indian education, the concerns, the needs, and what it feels on the basis of its consultation with the Indian community to be remedies that could be applied by the Department in carrying out its mandate. It has a very sharply defined role with respect to its advisory function concerning the position of the Director of Indian Education. I think it has been noted here by Jo Jo Hunt that the advisory role was carried out sedulously by the Department.

The CHAIRMAN. Am I correct that the selection of the director will be made from a list submitted by this Council?

Mr. BONNER. The Department is reviewing the list that was presented to it by NACIE.

The CHAIRMAN. And the selection will be made from one of those on that list?

Mr. BONNER. We understand that to be the import of the statute as of now.

The CHAIRMAN. Is there any comparison between the amount spent for higher education among Indians and those for federally-subsidized schools such as Gallaudet, Howard, and places like that?

Mr. BONNER. We will have to submit that information to you for the record, Mr. Chairman.

[Information appears in Mr. Bonner's prepared statement in appendix.]

The CHAIRMAN. I would appreciate learning of that.

I must confess that I have not had the opportunity to study in great detail that statement that you have submitted and the data that you have submitted, but upon my study, may I submit questions to you based upon such study?

Mr. BONNER. Certainly, sir.

The CHAIRMAN. Some of the panelists were quite concerned with a lack of data. Am I correct to assume that you are now in the process of collecting these data?

Mr. BONNER. The machinery is being set up. That is, we are presently at the creation, Mr. Chairman.

The CHAIRMAN. What sort of data will you be collecting?

Mr. BONNER. It is a matter of information that has been referred to by the members of the panel earlier—why don't we know more about the dropout rate among Indians, and what are the contributory factors of that? What are the cultural components that we could quantify that make for success in Indian education at the present time?

Mr. CORWIN. Beyond the dropout rate, I think we want to look at the completion rate at the college level in different fields and in graduate school. We have some data on that, but at this point it is quite old. There is a lot more that we need to know.

The CHAIRMAN. What sort of programs do you have for the Indian schools on the Drug-Free program?

Mr. CORWIN. Under the Drug-Free Schools and Communities Act, each year we transfer one percent of our appropriation to the Bureau of Indian Affairs to be allocated among Bureau-operated and Bureau-funded schools. We have a memorandum of understanding with them, but they basically handle the administration of the program.

The CHAIRMAN. It is just to BIA schools? What about the tribally-controlled schools? Do they receive any funds?

Mr. CORWIN. I believe that all of them are so-called BIA contract schools, and also receive funding under that set-aside.

Mr. SHEDD. In addition, Mr. Chairman, under the formula grant program, many schools have a drug-free curriculum. Under Higher Education, the Education Personnel Development Program, we have some training going on in the area of counseling, having to do with drug-free curriculum and practices in the schools. So we get it from the Higher Education activities as well as through the formula grants.

The CHAIRMAN. How does this compare percentage-wise with other school systems? You said that one percent of the funds would go to BIA.

Mr. CORWIN. We would have to give you exact numbers for the record, but as I recall, the per pupil amount that the BIA schools are receiving is several times as high as what the public schools are receiving through the formula grants under the Drug-Free Schools program.

[Information appears in Mr. Bonner's prepared statement in appendix.]

The CHAIRMAN. Do we have any analysis as to its effectiveness, or is it too early?

Mr. CORWIN. It is too early. In fact, some of the first year awards under the program were only distributed by the BIA to its schools late this summer and even in September, prior to the close of the fiscal year.

The CHAIRMAN. I am certain that the Indian community is pleased to learn that as soon as the IG's report comes in, you would be ready to appoint a director and that the mid-level positions and the other vacancies will be filled in a timely fashion.

Mr. BONNER. Yes sir.

Mr. SHEDD. They surely will.

The CHAIRMAN. Would that mean in about 1 month?

Mr. SHEDD. About the end of November for the mid-level positions.

Mr. BONNER. As I said, I cannot commit the IG to when its review will be at an end.

The CHAIRMAN. How many names have been submitted for the directorship? I am just curious.

Mr. BONNER. Seven, sir.

The CHAIRMAN. And they all have to go through the council. In the Navajo system, are they required to go through the council also, if they want their names to be considered?

Mr. BONNER. Frankly, sir, I do not know the precise policies or practices of NACIE in soliciting information from constituents, but I would assume that the Navajo Nation as well as other organizations have let their feelings be known.

The CHAIRMAN. Secretary Bonner and gentlemen, I thank you very much for your assistance this morning. We will be submitting questions to you based on your data.

Mr. BONNER. Thank you, sir.

[Information appears in Mr. Bonner's prepared statement in appendix.]

The CHAIRMAN. With that, I thank all of you for participating in our hearing this morning. As I indicated, this will be the first of many hearings on Indian education.

The committee now stands adjourned.

[Whereupon, at 11:50 a.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

STATEMENT OF SENATOR JOHN McCAIN
OVERSIGHT HEARING ON THE OFFICE OF INDIAN EDUCATION
SELECT COMMITTEE ON INDIAN AFFAIRS
OCTOBER 27, 1989

MR. CHAIRMAN, I WANT TO COMMEND YOU FOR CONVENING THIS HEARING ON THE PROGRAMS AND POLICIES OF THE DEPARTMENT OF EDUCATION CONCERNING INDIAN EDUCATION, BECAUSE THE DEPARTMENT HAS SUCH AN IMPORTANT ROLE TO PLAY IN THE EDUCATION OF AMERICAN INDIANS, AS WELL AS OTHER AMERICANS.

AMERICAN INDIANS TODAY CAN BE PROUD OF THE EVER-LARGER NUMBER OF INDIANS WHO OCCUPY POSITIONS OF DISTINCTION AND WHO BRING LEADERSHIP TO THE DIFFICULT ISSUES OF OUR TIME. THERE ARE MANY MORE YOUNG PEOPLE IN OUR SCHOOLS AND COLLEGES WHO ARE RECOGNIZED FOR THEIR SCHOLARSHIP AND FOR THEIR PROMISE.

BUT IT CONTINUES TO BE TRUE THAT THE AVERAGE LEVELS OF EDUCATIONAL ACHIEVEMENT AMONG INDIAN CHILDREN AND YOUTH REMAIN VERY LOW ACROSS THE NATION. BY VARIOUS STANDARDIZED TESTS, FAR TOO MANY READ TWO OR THREE GRADE LEVELS BELOW OTHER AMERICANS.

I WISH I COULD SAY THAT ARIZONA WAS AN EXCEPTION, BUT I CANNOT. I RESPECT THE EFFORTS THAT ARE BEING MADE BY EDUCATORS THERE, AND VERY RECENTLY -- BECAUSE OF MY CONCERNS -- I WROTE TO THE STATE BOARD, INQUIRING ABOUT PROGRESS THAT MAY HAVE RESULTED FROM NEW INITIATIVES THAT HAVE BEEN TAKEN THERE.

IN THE INDIAN EDUCATION ACT, WE ESTABLISHED FEDERAL GRANT PROGRAMS TO ENCOURAGE PLANNING AT THE LOCAL LEVEL TO BRING ABOUT HIGHER LEVELS OF ACHIEVEMENT AMONG INDIAN LEARNERS. WE CHARGED THE OFFICE OF INDIAN EDUCATION WITH THE ADMINISTRATION OF THESE PROGRAMS, AND WE ALSO CHARGED THE OFFICE WITH PROVIDING LEADERSHIP TO INDIAN PROGRAMS ELSEWHERE IN THE DEPARTMENT.

TODAY, I HOPE WE WILL OBTAIN A BETTER UNDERSTANDING OF THOSE PROGRAMS, AND I HOPE THAT WE WILL LEARN HOW THE DEPARTMENT IS PLANNING TO MAKE THE OFFICE OF INDIAN EDUCATION INTO AN EFFICIENT AND EFFECTIVE AGENCY.

JUST THIS WEEK, MR. CHAIRMAN, I HEARD FROM THE CHAIRPERSON OF A PARENT ADVISORY COMMITTEE IN MESA, ARIZONA. THOUGH SCHOOL BEGAN THERE ON AUGUST 28, THE GRANT AWARD NOTICE FROM THE OFFICE OF INDIAN EDUCATION WASN'T RECEIVED UNTIL SEPTEMBER 21. FUNDS WERE NOT AVAILABLE UNTIL OCTOBER 3, AND THE SCHOOL DISTRICT WAS UNABLE TO EMPLOY THE PERSONNEL TO CARRY OUT AN EFFECTIVE PROGRAM.

MY UNDERSTANDING IS -- AND I HAVE SO INFORMED MY CONSTITUENT -- THAT THE DEPARTMENT WILL BE SPEAKING TO THE PROBLEM OF LATE GRANT PAYMENTS AND WHAT IT IS DOING TO ASSURE THAT SCHOOL DISTRICTS ARE NOT HANDICAPPED THROUGH LACK OF TIMELY FUNDING.

IN CLOSING, MR. CHAIRMAN, I AM HOPEFUL THAT THIS HEARING WILL RESULT IN REAL IMPROVEMENTS IN THE ADMINISTRATION OF

INDIAN EDUCATION PROGRAMS AND A RENEWED UNDERSTANDING IN THE DEPARTMENT OF EDUCATION OF THE IMPORTANCE WE HERE IN THE SENATE ATTACH TO THESE PROGRAMS.

STATEMENT OF SENATOR FRANK H. MURKOWSKI
OVERSIGHT HEARING ON THE OFFICE OF INDIAN EDUCATION
SELECT COMMITTEE ON INDIAN AFFAIRS
OCTOBER 27, 1989

Mr. Chairman, I thank you and commend you for convening today's hearing.

It is important as one means of addressing the persisting low levels of achievement found among far too many American Indian and Alaska Native children and youth. Though most persons are likely to think of the Bureau of Indian Affairs when they think of Indian education, most Indian students are in public schools; their school districts look to the Department of Education for Federal assistance in bringing about improved levels of achievement among their Indian students.

In Alaska, the Bureau of Indian Affairs neither operates nor funds any schools. Except for a small number who attend private schools, all 21,000 Alaska Native children and youth attend public schools. Even though levels of State support for education are among the highest in the nation, Alaska school districts look to the Department of Education for supplemental programs and for leadership.

Despite high per pupil expenditures, the average achievement levels of Alaska Native children and youth are well below national averages. Money alone does not solve problems of underachievement in schooling.

Mr. Chairman, I am interested in the whole range of questions you have framed for today's hearing, but one of especial interest to me is the leadership role the Congress has assigned to the Office of Indian Education. Many of its programs are intended to stimulate innovative approaches to problems, and to produce pilot programs and demonstrations. School districts are required to report on the effectiveness of programs which the Office has funded.

For me, one of the critical questions today is, "What are the lessons we have learned from these innovative programs and demonstration projects?" Another is, "How is the Office of Indian Education disseminating these lessons to school districts?"

Finally, Mr. Chairman, let me compliment you for the leadership role you are taking in the area of Indian and Alaska Native education.

Thank you.

NATIONAL
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TESTIMONY OF THE NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

On Office of Indian Education and Other Department of Education Programs

Before the Select Committee on Indian Affairs

United States Senate

October 27, 1989

Good morning, Mr. Chairman and Members of the Select Committee on Indian Affairs. I am Jo Jo Hunt, Executive Director of the National Advisory Council on Indian Education. I bring you greetings from the new Chairman of the Council, Mr. Eddie L. Tullis, and from the Members of the Council. I am very pleased to present the Council's views on programs and operations of the Office of Indian Education (OIE) and other education programs within the Department of Education which benefit or could benefit Indians and Alaska Natives.

The National Advisory Council on Indian Education has been in existence since 1973, having been established pursuant to the Indian Education Act passed as title IV of the Education Amendments of 1972 (Public Law 92-318). The Indian Education Act has undergone five reauthorizations with the last being Part C of title V of Public Law 100-297. The Council consists of 15

A Presidential Council Established by Congress

Members who are Indians, as defined in the Indian Education Act (including Alaska Natives), and are appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and representing diverse geographic areas of the country. The Council's charge has remained virtually unchanged in these reauthorizations and includes, among other things, the duty to advise the Secretary of Education with respect to the administration of any program in which Indian children and adults participate or from which they can benefit, including the programs under the Indian Education Act, and the duty to submit to the Congress each year a report, including any recommendations necessary for the improvement of federal education programs in which Indian children and adults participate or from which they can benefit.

I cannot speak regarding the attitude of previous Members of the Council on the breadth of its mandate. However, the current Council unanimously passed a motion at its meeting in January 1989 that it recognizes that its mandate to advise and/or recommend on federal education programs in which Indians participate or from which they can benefit includes all federal education programs, regardless of the department in which the program is located. Consequently, the Council interprets its charge as including programs ranging from early childhood education to higher education to adult and vocational/technical education in any department of the federal government, including programs in which Indian children and adults are currently participating or those from which they can benefit but have not yet done so.

Please let me begin by noting that I have been with the Council since December 1988. My comments will reflect interactions with and observations of the Office of Indian Education (OIE) and the Department of Education since that time. During this period of time, many events have occurred, including the appointment of an Acting Director of OIE, the posting and reposting of vacancy announcements for seven mid-management positions, the posting of a vacancy announcement for the Director of OIE with subsequent interviews and submission of a NACIE list of nominees for that position, the posting of other vacancy announcements for jobs within OIE, and the signing of Indian preference and non-Indian preference memoranda of understanding between the Department and the labor union. Programmatically, OIE has completed a cycle of formula grant, discretionary grant, and fellowship awards as well as publication for comment of proposed rulemaking and publication of final regulations for formula grants, discretionary grants, and fellowships. Consequently, this short period of time has encompassed most of the possible events that could happen to OIE with the exception of hiring of permanent staff under the Indian preference policy.

Mr. Chairman, let me make it clear that the National Advisory Council on Indian Education began an effort in December 1988 to try to work with the Department of Education within the confines of our reading of the Council's enabling legislation. Section 5342(b)(1) of Public Law 100-297 provides that the Council shall "advise the Secretary with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate or from which they can benefit," including the Indian Education Act programs. The Council felt that this provision covered administrative policies, including the development and implementation of an Indian preference policy in OIE. In addition, section 5342(b)(6) provides that the Council shall "submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs." Based on these statutory mandates, we began in December in conversations with the Assistant Secretary for Elementary and Secondary Education Beryl Dorsett regarding the implementation of Indian preference under section 5341(c) of Public Law 100-297 and regarding the placement of an Acting Director for the Office of Indian Education. However, we learned that the Assistant Secretary had simply been told by the Department who the Acting OIE Director would be, and we got negative responses to requests for a copy of the Department's Indian preference policy statement and advance copies of mid-management vacancy announcements prior to posting. Accordingly, a letter, dated January 4, 1989, was sent to Secretary Cavazos seeking his intervention to acquire these documents. Unfortunately, this request was denied and the announcements were posted showing the first evidence to the Council of the Department's Indian preference policy. The Council staff nevertheless mailed several hundred copies of these announcements out to Indian tribes and organizations and other entities to encourage Indian and Alaska Native people to apply for the jobs.

Acting OIE Director Aaron Neal Shedd reported to the Council at its meeting on January 18, 1989, that there were neither sufficient funds nor full-time equivalents available in OIE to fill all 7 mid-management positions. He stated that all of the positions could not be filled until October 1, when the new appropriation would become available. Based on this information, the Council voted unanimously to recommend to the Secretary that the Department not fill these positions until after the permanent Director of OIE is selected. Mr. Shedd later reported in mid-February at a meeting of United South and Eastern Tribes that there would be sufficient funds to fill one branch chief job in mid-May and another in early summer with the remaining positions having to wait to be filled in October. On February 23, 1989, the Chairman of the Council sent a letter to the Assistant Secretary for Elementary and Secondary Education reflecting the Council's position on this matter.

It should be noted that Secretary Cavazos responded on February 2 to the Council's January 4 letter by stating that Department Officials do not believe that the Council has any statutory role for advising on internal management or personnel issues related to OIE or any other office of the Department. He noted the one exception relating to "the Council's role in nominating a Director of OIE." In a follow-up letter on February 23, 1989, the Council requested a meeting and a desire to establish a cooperative and open relationship with the Secretary. The Secretary replied on April 26 but did not respond to the request for a meeting. There has been no response to the February 23 letter to the Assistant Secretary recommending that the 7 mid-management personnel be selected by the new OIE Director.

In late April and early May, the Acting Director of OIE (who was also an applicant for the permanent OIE Director position) conducted very hastily scheduled interviews for the mid-management jobs with one applicant reportedly being told in the morning of an afternoon interview and another applicant having reported being first telephoned 30 minutes before the interview was scheduled and held. Since the Department had waited since February 14 when these vacancy announcements had closed, it seemed a little strange to fill them just prior to what was thought to be the conclusion of the process for selection of the new-OIE Director. The Council had taken a position in January that the OIE mid-management staff should not be selected by an acting director; that the selection process for the permanent director should be expedited; and that filling these mid-management positions should be the new director's first order of business. The Council felt that the best way to get the Office of Indian Education off to a good start under Indian preference is to begin by the top staff being selected by the new director with the attendant allegiance to that director.

On February 2, 1989, the Council submitted comments on a draft vacancy announcement for the OIE Director position. Although we commented on the Indian preference provisions, which were the same as in the previously announced mid-management vacancies, no changes were made in these provisions in the final director's vacancy announcement. The vacancy announcement for the position was posted on February 21, 1989, and closed on March 31, 1989. The position is a Senior Executive Service (SES) position, and the Executive Resources Board rating panel met on April 19, 1989. A NACIE Member served on this panel. There were initially 25 applications, of which 11 were found by the Office of Personnel to be at least minimally qualified, so the rating panel scored these 11 applications. However, on May 2, the Council was advised that 5 additional timely filed applications had been found, of which 3 were at least minimally qualified and had to be scored by the panel. Scoring of these were done by express mailing of copies of the applications and faxing back of the scores. Shortly after May 18, 1989, the Office of Personnel provided, at the Council's request, the names and applications of the candidates who were rated highly qualified by the Executive Resources Board rating panel. Office of Personnel had previously provided the applications of three candidates who were rated as best qualified and one candidate who was found to be SES reinstatement eligible. The Council moved quickly to schedule a meeting. Pursuant to section 5342(b)(6) of Public Law 100-297 and the provisions of the NACIE Charter, the Council's Search Committee met in closed session on May 22, 1989, and the full Council met in closed session on May 23, 1989, to consider candidates for the position of Director, Office of Indian Education. Interviews of the 6 candidates were conducted on May 23, 1989, and the same 11 questions were asked of each of the candidates. Ten of the current 14 Members of the Council were present for the interviews. One Council Member did not participate in the interviews or selection because she had been interviewed by one of the candidates (Acting OIE Director) for one of the mid-management positions. Acting Assistant Secretary Daniel Bonner also interviewed the candidates on May 23. On May 24, 1989, a letter, containing the names of the Council's 3 nominees, was submitted to the Secretary of Education. The letter ranked the nominees in order of preference, giving the top choice and first and second alternates, respectively.

The Council received from Acting Assistant Secretary Bonner a written acknowledgment of the Council's submission of the list of nominees. Subsequent to this written response, Mr. Bonner and I spoke on several occasions regarding the selection process, and he advised me that he sent his recommendation for OIE Director to the Secretary on June 14 but did not tell me who he recommended. On June 26, he advised me of the name that the Secretary had sent to the Office of Personnel Management (OPM) for clearance, and this was the individual listed as first alternate on the NACIE list of nominees. While it now appears that all of Indian country has since learned this information, Mr. Bonner and I agreed not to make the name of the Secretary's choice public until such time as the individual is cleared by OPM because there have been situations in which OPM determined that the selected individual did not meet Senior Executive Service qualifications.

Mr. Chairman, this is where the selection process has broken down. I understand that there has been some opposition to the Secretary's choice for OIE Director and that various investigations have been underway. The Department's Office of Inspector General has called me on several occasions regarding the individual selected but recently called for the telephone numbers of the two other NACIE nominees. Perhaps, there is some movement now to change the Secretary's choice. The Council recommends that the director be placed as soon as possible so that he or she can select the top management staff and the Office of Indian Education can move toward becoming fully staffed and fully operational.

The Department did not change its negative position regarding sharing of policy statements with the Council on Indian preference issues, and the Indian preference and non-Indian preference memoranda of understanding with the labor union and personnel manual instructions were provided to Council representatives, together with everyone else, on September 29, 1989, at a general meeting held for employees. It should be noted that expectations of non-Indian staff within OIE had apparently been raised regarding promotions even after enactment of the Indian preference provisions requiring the Secretary to "give a preference to Indians in all personnel actions within the Office of Indian Education." Consequently, there has been hostility by non-Indian employees towards implementation of Indian preference and reported threats of lawsuits to block its implementation. I understand that morale in OIE is not at its highest. This is understandable with many of us advocating Indian preference and non-Indian employees reportedly unsure of their futures, although there is a one-time non-Indian preference to assist them in securing jobs outside of OIE. However, Mr. Chairman, it is obvious to me that affirmative action has not worked for Indians in OIE with only four Indian permanent employees there.

The Council staff has helped in the dissemination of the vacancy announcements for the director, the initial announcements for the seven mid-management positions, education specialist positions, and most recently senior program specialist positions. The mid-management positions were reannounced due to complaints that the overall dissemination was not broad enough and complaints that Indian people with many years of experience working at Bureau of Indian Affairs Office of Indian Education Programs had been sent letters by Department of Education's Office of Personnel indicating that they had no experience in Indian education and had been summarily disqualified. The Office of Personnel reopened the vacancies for these jobs, requested and received the Council's mailing labels, and sent out more announcements. However, none of these various positions have been filled, and non-Indian employees are continuing to move out of OIE under the one-time preference for non-Indians to move to other positions in the Department of Education. It should also be noted that there has been an Acting Director of the Office of Indian Education for 5 out of the last 7 years.

On October 12, 1988, the Department of Education published for comment proposed rulemaking for the Indian fellowship program. The comment period closed on December 12, 1988. Although these regulations were not final, the 1989 fellowship applications cited these regulations and the scoring of the applications was based on the criteria in these yet-to-be-finalized regulations. On May 18, 1989, final fellowship regulations were published and became effective on July 19, 1989. On November 16, 1988, the Department published for comment proposed rulemaking for the Indian Education Act general provisions, the formula grant program, and the discretionary grant program. The comment period ended on January 17, 1989. The Department published final formula grant regulations on May 4, 1989, and final general provisions and discretionary grant regulations on May 11, 1989. While the Council is required by its enabling legislation in subsection (b)(1) to advise the Secretary with respect to the administration, including the development of regulations of any program in which Indians participate or from which they can benefit, including the OIE programs, and in subsection (b)(5) to assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under the formula grant program, the Council received the notice of proposed rulemaking like everyone else--in the Federal Register. However, the Department did accept the Council's comments on the formula and discretionary grant regulations after the deadline for public comments. Among other things, the Council recommended that all the notices of proposed rulemaking published on November 16, 1988, be republished as an amendment in the nature of a substitute so that grantees and other interested parties could determine how the regulations would actually read with such changes. This recommendation was made because the OIE Acting Director had reported to the Council on January 18 that no comments were received from the field on the proposed rulemaking and also because of the tedious process one had to follow to determine what actual changes were being proposed in existing regulations. For example, in reviewing changes effected by the proposed formula grant rulemaking, one had to review not only the Federal Register notice of proposed rulemaking but also Public Law 100-297, the technical amendments to such law, the regulations as printed in the newest available bound volume of title 34 of the Code of Federal Regulations (revised as of July 1, 1987), and the final formula grant regulations published in the Federal Register on July 28, 1987. Mr. Chairman, this tedious review and comparison was difficult for me as an attorney with a background in legislation and regulations and would be virtually impossible for the average layperson in Indian country. The OIE Acting Director related at a subsequent meeting of an Indian organization that, although quite costly, any future proposed rulemaking and final regulations for OIE programs would be published as an amendment in the nature of a substitute. However, the final regulations were not in this promised format.

One further point on the promulgation of regulations for OIE programs must be made. There were only minor changes made in the proposed regulations prior to publication as final regulations. In addition, the proposed fellowship regulations were used for the 1989 awards, so it is clear that only very minor changes could be made prior to publication of the final regulations in May 1989 after the fellowship recipients had been selected using those criteria. These facts about the process leaves one wondering about the futility of commenting on any OIE proposed regulations, even if you take the time and make the considerable effort to try to figure out the proposed changes.

Mr. Chairman, the Council learned in September that although the formula grants to public school districts were to be effective on July 1, 1989, grant award documents had not been sent to the majority of some 1,100 public school districts as of mid-September. There were complaints that some school districts were considering laying off Indian education staff and putting the program on hold until the grant award documents were received. The Council also received complaints that some Indian fellowship recipients had to make loans to cover tuition prior to their schools receiving the actual funds. While the Indian Education Act of 1988 provides that the fellowship recipient must receive written notification of the amount of the award no later than 45 days before the commencement of the academic term, there is apparently still a problem with the actual arrival of the funds at the universities. If this is the case, the Indian Education Act may need further amendment to address this problem. These problems may be resolved simply with full staffing of the OIE and effective regulations in place. Another concern is whether OIE is able to do the necessary monitoring of grantees with the staff shortage.

Mr. Chairman, I do not want you to think that everything has gone wrong since December 1988 between the Department of Education and the Council. I must tell you that administrative matters have gone very smoothly for the most part. The Acting Assistant Secretary for Elementary and Secondary Education and the Acting OIE Director have assisted in moving necessary paperwork for the Council to perform its duties and conduct its meetings and, in fact, has allowed the Council to use $6,000 of OIE funds, which would have lapsed, to print our annual report. This was the amount of funds the Council needed because of the unexpected OIE Director search activities which the NACIE budget had to sustain. In addition, OIE has been tremendously helpful to us in our quest for a computer for the Council. I am pleased to report that we have been told by the OIE Acting Director to expect the computer to be delivered to us in November. Other Department of Education administrative components have also been very helpful. The Council and I very much appreciate this assistance.

Mr. Chairman, the Council began requesting a meeting with the Secretary of Education as early as January 1989. In February, the request was put in writing. The Council finally met with Secretary Cavazos on October 8, 1989, in Anchorage, Alaska. At that time, he requested that the Council provide him with information. He had just delivered a keynote speech at the opening assembly of the National Indian Education Association Annual Conference in which he indicated that Indian and Alaska Native education is a priority of the Department of Education. He agreed with the Council's most recent annual report in that reliable, uniform data and statistical information are needed regarding Indian and Alaska Native educational status, achievement levels, and dropout rate. He agreed that we cannot plan for the future of Indian education without knowing where we are now. These are very welcome words from the Secretary. The Council and I look forward to working with him in improving the educational status of Indians and Alaska Natives. However, we need to get the Office of Indian Education staffed and functioning well to assist in accomplishing these goals. The Council believes that much of the needed data should and could be provided by OIE's formula grantees. These grantees consist of some 1,100 public school districts and about 200 BIA-operated and tribally controlled schools. With the inclusion of BIA-funded schools in the formula grant program, we now have one federal education program which funds approximately 93 percent of the Indian students, since 82 percent of such students are in public schools and 11 percent are in BIA-funded schools. Uniform data should be required of these grantees; however, we may need Congressional action to direct this data collection and to avoid Paperwork Reduction Act restrictions.

Although OIE has a relatively small budget compared to other education programs in the Department of Education and compared to the education budget of the Bureau of Indian Affairs, OIE programs touch the lives of more Indian children and adults in this country than any other federal education program. The Council has consistently recommended that the Office of Indian Education be reestablished as an independent division within the structure of the Department of Education with the Director of OIE upgraded to an Assistant Secretary to report directly to the Secretary of Education. The Council believes that this placement would afford Indian education the attention it deserves. We do not believe that an Assistant Secretary's position would be left with individuals in an acting capacity for five out of seven years. The original Indian Education Act [illegible] 2 established OIE as a bureau under the direction of the Commissioner of Education and to be headed by a Deputy Commissioner of Indian Education. Of particular importance is the placement of OIE at this bureau level with its deputy reporting directly to the Commissioner, then the highest ranking federal government official in the field of education. The Council's recommendation would put Indian education back at its orginal level of importance. In addition, it is inappropriate for an office with a fellowship program component and an adult education component to fall within the jurisdiction of the Office of Elementary and Secondary Education.

Mr. Chairman, your invitation to present testimony indicated that this hearing would also focus on other Department of Education programs outside of OIE which benefit American Indians and Native Hawaiians. The statutory charge of the National Advisory Council on Indian Education does not include education issues affecting Native Hawaiians, but it does include Indians and

Alaska Natives. As indicated in the first paragraphs of this document, the Council is charged with providing advice to the Secretary and recommendations to the Congress regarding education programs in which Indian children and adults participate or from which they can benefit. The Council staff has identified a number of Department of Education programs in which our constituent population is participating, and we have included a chart of such programs in our fiscal year 1988 annual report. We have provided this chart to your staff and have mailed it to our entire mailing list. We have also begun a bigger project to review federal education programs in which Indians are not participating, determine impediments to such participation, and develop recommendations to ensure Indian and Alaska Native access to such programs, as appropriate. Additionally, the Council held in early October five two-hour issues sessions at the National Indian Education Association Conference to hear from Indian and Alaska Native people the problems and issues facing them in education. Issues sessions were held on public school concerns, BIA/tribal school concerns, tribal college concerns, adult and vocational-technical education concerns, and higher education and scholarships. We will shortly be compiling a summary of these sessions, which we will distribute to the Administration, the Select Committee, and other appropriate Congressional committees. Consequently, we have recent input from Indian and Alaska Native people regarding these programs and some sense of current Indian/Alaska Native participation or lack thereof.

The participants in our public school issues session were concerned with the use by school districts of Indian Education Act formula grant-funded staff to provide guidance and counseling services and often as truant officers or attendance officers. This is a basic supplanting issue with school districts apparently using this staff which is to provide supplemental education services to perform duties for which the school district should pay. Consequently, this again goes back to the need for monitoring of the grants by OIE staff. We also received a telephone call just this week from a Houma Indian from Louisiana who indicated that the school district in Theriot has told its Indian parent committee members that they are only advisory and do not have to sign off on the grant application and that the school district can spend the Indian Education Act funds as it sees fit.

Other concerns from the issues session indicate that Indian and Alaska Native people are, for the most part, unaware of the special impact aid provisions for school districts that claim entitlements based on the number of children residing on Indian lands. Consequently, the Impact Aid Office should provide additional technical assistance to tribes on how to assert their rights under the regulations for tribal officials and parents of Indian children to actively consult with the school district and regularly be involved in the planning and development of education programs assisted with impact aid funds. The Council will devote part of its next newsletter to this subject.

The BIA/tribal schools session reflected the need for a working and ongoing task force between the Bureau of Indian Affairs and the Department of Education to work out problems which may develop with eligibility of BIA and tribal schools for Department of Education programs. One of the programs already identified which exclude Indian children in tribal and BIA schools is the Even Start Program. The impediment to participation is that the eligible entity is a local educational agency (LEA), and the Department of Education has determined that tribal and BIA schools are not LEA's. The tribal school representatives in this session also pointed to the overall problem of their exclusion from the definition of "LEA" for most state-administered federal grant-in-aid programs. While the Council has not yet taken an official position on this issue, it appears that the inclusion of tribes in the definition of "LEA" would put them and their tribally chartered schools in a position to deal, if they so desired, more effectively with the states to get into the state plans and compete for state-administered federal funds for vocational education, adult education, and so forth. Now, for the most part, states can and do exclude tribes and tribal schools from such funds and are able to do so because of the definition in the federal statutes. One caveat raised was that any inclusion in the state program should not put tribes at odds with sovereignty issues with the states. The Council has encouraged the Even Start Program staff and the Office of General Counsel to interpret statutory language to be as inclusive as possible to serve Indian and Alaska Native children. We would appreciate the help of the Committee in this "attitude change" effort with the Administration and other Committees of Congress since we realize that the Select Committee on Indian Affairs will not be able to unilaterally deal with changing this definition to include tribes in general education legislation.

Mr. Chairman, a number of tribal college presidents and representatives attended the Council's issues session on tribal college concerns. They were particularly concerned about the dwindling funding sources with Title III Developing Institutions apparently pulling back from tribal colleges, obstructions in research programs and other general grant programs because many such programs are linked to four-year institutions, the futility of counting on funding from the OIE discretionary grant program, the need for teacher training with no such funding available this year from the educational personnel development component of OIE, and the need for operational and construction funds for their college libraries. Mr. Chairman, the Council has heard the colleges' concern regarding teacher training echoed in all of the issues sessions. There is a critical need for Indian and Alaska Native teachers to fill classrooms. The tribal colleges, particularly Sinte Gleska and Oglala with their baccalaureate degree programs and now with Sinte Gleska's masters program, have worked to bring teacher aides already working in schools forward to receive degrees and take their places as certified teachers of Indian youngsters. The Council recommends that the Office of Indian Education and the Department of Education place a special emphasis in all programs, together with the necessary funds, to address this critical teacher training need.

The adult education and vocational-technical issues session included funding concerns with a call for a two percent set-aside for Indian and Alaska Native programs in the federal Adult Education Act. There was also a recommendation that an assessment be conducted of Indian and Alaska Native adult and vocational education needs. There was a definite preference expressed to keep Indian vocational education grant programs at Department of Education rather than moving any component part to Bureau of Indian Affairs.

Although a number of the concerns in the higher education and scholarships issues session were directed at BIA, there was a concern that universities which receive Indian fellowship funds are sometimes delinquent in passing on the cash to recipients after tuition has been paid and that OIE should look at the possibility of establishing uniform guidelines for universities to disperse Indian fellowships funds. In addition, there was discussion of the great wisdom of conducting an assessment of the professional needs of Indian tribes and Alaska Native villages and corporations for determining eligible fields of study and matching graduates back to available jobs.

Mr. Chairman, there is one last related issue which I want to address. Part E of title V of Public Law 100-297 authorized the President to call the White House Conference on Indian Education. Since this conference has the broad purpose to develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, I want to reiterate a portion of our previous testimony before this Committee. Part E needs some technical amendments, and while we do not currently have any recommendation of a vehicle for these amendments, such a vehicle should be found. The needed technical amendments include correction of section 5508 to authorize appropriations for fiscal year 1991 to correspond to the authorization to call the conference to be held as late as September 30,

1991. Currently, the section authorizes appropriations for fiscal years 1988, 1989, and 1990, and it is clear that these years were not pushed back when the bill (H.R. 5) introduced very early in the first session was passed in the second session of the 100th Congress. In addition, there has been concern expressed by Council Members and the Indian and Alaska Native education community that the task force to be established under section 5504 to plan and conduct the conference is to consist of "such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education determine to be necessary to enable the Task Force to carry out its duties." The reported fear is that the task force will consist totally of seasoned bureaucrats who may seek reasons to preclude innovations rather than find ways to get things done. It should be noted that there are no provisions in Part E for NACIE involvement in the conference, although the Council does expect to be involved and has already begun soliciting and receiving comments from Indian and Alaska Native organizations and individuals regarding issues that should be addressed by the conference. It has been suggested that the NACIE Executive Director should be specified in the legislation as a member of the task force and that the NACIE Chairman should be an ex officio member of the advisory committee for the conference under section 5506. At its January 1989 meeting, the Council voted unanimously to support such an amendment. Of equal concern, however, is some language to direct the Secretary of the Interior and the Secretary of Education to appoint an equal number of employees from within the departments who know the current system with its constraints and new employees specifically hired from outside to bring a fresh approach. The Council would appreciate the Committee's consideration of these recommendations and would hope that the Committee, in its wisdom, would direct staff to find the appropriate vehicle on which to attach these amendments.

Mr. Chairman, as you can see from the length of this document and the breadth of the issues discussed at the Council's issues sessions, the Council and Indian and Alaska Native people are very concerned about education issues. Although we may be critical of government programs and we often lament about Indian and Alaska Native youngsters dropping out of school, we do have some success stories. However, those do not lessen the urgency with which we approach the Department of Education and other government agencies because we do not have to worry about the Indian children and adults who are success stories. I often say that the Department of Education, like many other agencies, does not want advisory councils; but, Mr. Chairman, this Council wants to be on the scene observing, advising, and sometimes tugging on coat sleeves because it is our boys and girls who desperately need educational services to face the 1990's and the 21st century. We sometimes seem impatient to the Department and that is because we are and need to be. With the available statistics showing American Indian and Alaska Native educational status still at the bottom in America, we are the people with something to lose if we do nothing but we have so much to gain if we work together. Mr. Chairman, the National Advisory Council on Indian Education does not have the answers but we are working with the people to find them. The Council wants to work closely with the Congress and the Administration to make Indian and Alaska Native education exemplary in this country. With the special relationship between Indian tribes/Alaska Native villages and the federal government and our smaller population, we challenge you to help us to be the model for the rest of the country, for with our diversity, if educational programs will work for us, they will work for the rest of America.

The Council and I greatly appreciate this opportunity to appear before the Committee today to address Indian and Alaska Native education concerns. I will be happy to answer any questions you and the Committee Members may have or to supply any additional requested information for the record.

Thank you.

Directors/Acting Directors for Past 10 Years
Office of Indian Education

Office of Indian Education, Department of Education

Dr. Gerald Gipp	Dep. Commissioner of Indian Ed. (HEW)	1977 - 1980
Mr. Hakim Khan	Acting Director	1980 - 1982
Dr. Frank Ryan	Director	1982 - 1983
Mr. Hakim Khan	Acting Director	1983 - 1984
Dr. Frank Ryan	Director	Jan. 1985 - Jan. 1986
Mr. Hakim Khan	Acting Director	Jan. 1986 - Nov. 1987
Mr. John Sam	Director	Nov. 1987 - Aug. 1988
Mr. Brian Stacy	Acting Director	Aug. 1988 - Dec. 1988
Dr. Neal Shedd	Acting Director	Dec. 1988 - Present

TESTIMONY BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

ON

EDUCATION PROGRAMS ADMINISTERED BY
THE DEPARTMENT OF EDUCATION

PROVIDED BY

ASSOCIATION OF COMMUNITY TRIBAL SCHOOLS

Mr. Roger Bordeaux, Executive Director

449 NORTH PLUM STREET - SUITE 100
VERMILLION, SOUTH DAKOTA 57069

OCTOBER 27, 1989

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU THIS MORNING CONCERNING PROGRAMS AND OPERATIONS OF THE OFFICE OF INDIAN EDUCATION AND OTHER EDUCATION PROGRAMS WITHIN THE DEPARTMENT OF EDUCATION WHICH BENEFIT AMERICAN INDIAN AND NATIVE HAWAIIANS.

P.L. 93-638 AND P.L. 100-297 AUTHORIZES CONTRACTS AND GRANTS WITH TRIBES AND TRIBAL ORGANIZATIONS TO OPERATE ELEMENTARY/SECONDARY SCHOOLS. THERE ARE OVER 12,000 STUDENTS IN CONTRACT AND GRANT SCHOOLS. WE HAVE OVER FIFTY PERCENT OF THE INDIAN STUDENTS ENROLLED IN OUR MEMBER SCHOOLS. THEY RECEIVE BASIC SUPPORT FROM THE INDIAN SCHOOL EQUALIZATION PROGRAM (ISEP). ISEP GENERATED $2,407.50 PER WEIGHTED STUDENT IN FISCAL YEAR 1989. THE COMMUNITY/TRIBAL SCHOOLS STRIVE FOR EXCELLENCE THROUGH CULTURAL RELEVANCY OF THEIR CURRICULUM. THE STUDENTS WHO TAKE FULL ADVANTAGE OF THE PROGRAMS WILL BE PREPARED FOR FUTURE LIFE.

THE COMMUNITY/TRIBAL SCHOOL STUDENTS ARE ELIGIBLE FOR TITLE V, PART A, INDIAN EDUCATION PROGRAMS BECAUSE THE SCHOOLS ARE DEFINED AS LOCAL EDUCATION AGENCIES. THE SCHOOLS ARE ELIGIBLE, AS INDIAN CONTROLLED SCHOOLS AND ORGANIZATIONS, FOR PART A SET-ASIDE DISCRETIONARY FUNDS, PART B FUNDS, AND PART C FUNDS.

THE SCHOOLS RECEIVE SOME OF THE DEPARTMENT OF EDUCATION FUNDS, AS FLOW THROUGH FUNDS, FROM THE BUREAU OF INDIAN AFFAIRS (BIA). THEY ARE ELIGIBLE FOR OTHER DOE FUNDS BECAUSE THEY ARE DESIGNATED AS PRIVATE ORGANIZATIONS OR PRIVATE SCHOOLS.

CONCERNS ABOUT U.S. DEPARTMENT OF EDUCATION

1. TITLE V - INDIAN EDUCATION ACT. WE ARE CONCERNED THAT THIS PROGRAM HAS EXPERIENCED AN APPROXIMATELY 10% REDUCTION SINCE FY 1981. IN FY 1981

THE APPROPRIATIONS WAS $81,680,000. IF THE AVERAGE INFLATION RATE WAS 4%, THE TOTAL FOR FY 1990 SHOULD BE $107 MILLION.

WE ARE CONCERNED ABOUT THE SENATE APPROPRIATIONS LANGUAGE WHICH REQUESTS THE DEPARTMENT OF EDUCATION TO LOOK INTO WAYS TO EQUALIZE PER PUPIL FUNDING BETWEEN PART A AND PART A SET-ASIDE. IT MUST BE REMEMBERED THAT PART A IS AN ENTITLEMENT PROGRAM FOR ALL INDIAN STUDENTS IN PUBLIC SCHOOLS AND INDIAN CONTROLLED SCHOOLS. PART A SET-ASIDE IS A DISCRETIONARY ENRICHMENT PROGRAM FOR INDIAN CONTROLLED SCHOOLS. THE SET-ASIDE IS ONLY $3,500,000. THE PART A SET-ASIDE MUST BE FUNDED AS AUTHORIZED BY P.L. 100-297.

2. CHAPTER I. THE CHANGES LEGISLATED BY P.L. 100-297 WILL IMPROVE DELIVERY OF SERVICES TO STUDENTS IN COMMUNITY/TRIBAL SCHOOLS. THE IMPLEMENTATION OF SCHOOL WIDE PROJECTS WILL INCREASE DELIVERY OF SERVICES AND SHOULD DECREASE PAPER WORK.

3. CHAPTER 2. COMMUNITY/TRIBAL SCHOOL STUDENTS ARE ELIGIBLE FOR THESE PROGRAMS THROUGH LOCAL EDUCATION AGENCIES (PUBLIC SCHOOL DISTRICTS), BUT ONLY IF AN L.E.A. WISHES TO ENTER INTO A CHAPTER 2 AGREEMENT. IT WOULD BE MORE EQUITABLE FOR THE COMMUNITY/TRIBAL SCHOOLS TO BE DESIGNATED AS LOCAL EDUCATION AGENCIES THEREBY INSURING SERVICE DELIVERY.

4. IMPACT AID. COMMUNITY/TRIBAL SCHOOLS ARE ELIGIBLE TO RECEIVE FUNDS FOR STUDENTS ENROLLED, WHO ARE NOT ELIGIBLE FOR ISEP. THE LEA IS NOT REQUIRED TO COUNT THE STUDENTS. THERE MUST BE A REQUIREMENT THAT LEA'S COUNT STUDENTS IN COMMUNITY/TRIBAL SCHOOLS WHO ARE ELIGIBLE FOR IMPACT AID AND NOT ELIGIBLE FOR ISEP.

5. EDUCATION OF THE HANDICAPPED. COMMUNITY/TRIBAL SCHOOL STUDENTS ARE ELIGIBLE FOR THESE PROGRAMS, AS FLOW THROUGH PROGRAMS, FROM THE BUREAU OF INDIAN AFFAIRS. STUDENTS RECEIVE SERVICES BASED ON ABILITY OF LOCAL GRANTSMANSHIP AND DISCRETION OF BIA SPECIAL EDUCATION STAFF. THESE FUNDS MUST BE DISTRIBUTED THROUGH THE EXISTING CATAGORICAL FUNDING MECHANISM WITHIN ISEP.

6. VOCATIONAL EDUCATION. COMMUNITY/TRIBAL SCHOOL STUDENTS ARE ELIGIBLE FOR THIS PROGRAM VIA THE SET-ASIDE FOR INDIAN TRIBES AND TRIBAL ORGANIZATIONS. THE PROBLEM IS, THESE FUNDS ARE NOT GENERALLY GIVEN TO SECONDARY PROGRAMS. THE SCHOOLS COULD RECEIVE THE FUNDS FROM THE STATE IF THEY CAN ACCESS THROUGH THE STATE PLAN. THERE ARE VERY FEW SCHOOLS THAT HAVE BEEN ABLE TO ACCESS THROUGH THE STATE PLAN. WE HAVE PREVIOUSLY PRESENTED TESTIMONY ON OUR POSITION EARLIER THIS YEAR WHEN TESTIFYING ON S. 496. HOWEVER, MR. CHAIRMAN IF I MAY, LET ME UNDERLINE ONCE MORE AN IMPORTANT POINT CONCERNING VOCATIONAL EDUCATION. FUNDS ALLOCATED UNDER THIS PROGRAM ARE DONE SO UNDER A NATIONAL FORMULA. INDIAN STUDENTS AND EVEN ADULT INDIANS ARE INCLUDED WHEN A STATE'S ALLOCATION IS DETERMINED UNDER THE EXISTING FORMULA. ALTHOUGH AS PREVIOUSLY MENTIONED, THERE IS A SET-ASIDE FOR TRIBES AND CERTAINLY THERE HAVE BEEN SOME VERY GOOD VOCATIONAL EDUCATION PROGRAMS BEGUN AT THE TRIBAL LEVEL UNDER THIS PROGRAM, BIA FUNDED SECONDARY SCHOOLS DO NOT RECEIVE ANY FUNDING UNDER THE FORMULA. I REPEAT THERE ARE NO DOLLARS COMING INTO BUREAU FUNDED SECONDARY SCHOOLS. ISEP IS AN EXCELLENT FORMULA PROGRAM WHICH IS COMPARABLE TO STATE AND LOCAL FUNDS RECEIVED BY A LOCAL EDUCATION AGENCY (PUBLIC SCHOOL DISTRICT). A LOCAL EDUCATION AGENCY DOES HOWEVER, RECEIVE A GUARANTEED LEVEL OF FUNDING UNDER THE CARL PERKINS ACT. IT ALLOWS THEM TO DO A GREAT NUMBER OF THINGS. THE CURRENT SITUATION IS TERRIBLY DISCRIMMINATORY. AS WE SPEAK, THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES IS MARKING-UP THE CARL PERKINS ACT. ABSENT FROM THAT LEGISLATION -- AT LEAST

) MY KNOWLEDGE -- IS ANY ATTEMPT TO ALLOW BIA FUNDED SCHOOLS THE ABILITY) LEVERAGE DEPARTMENT OF EDUCATION VOCATIONAL EDUCATION DOLLARS. ANYTHING IIS COMMITTEE COULD DO TO INCLUDE LANGUAGE WHICH WOULD DESIGNATE BIA FUNDED ECONDARY SCHOOLS AS LOCAL EDUCATION AGENCIES FOR PURPOSES OF THE CARL ERKINS ACT WOULD BE APPRECIATED.

. OTHER CONCERNS.

) SCHOOLS ARE TROUBLED BY THE DEPARTMENTS LIMIT ON THE AMOUNT OF FUNDS IAT CAN BE USED FOR ADMINISTRATIVE COSTS. THERE IS CURRENTLY A 8% LIMIT N DEPARTMENT OF EDUCATION PROGRAMS.

) THE WHITE HOUSE CONFERENCE ON INDIAN EDUCATION MUST BEGIN.

SUMMARY

IF DEPARTMENT OF EDUCATION PROGRAMS DO NOT GO DIRECTLY TO THE OMMUNITY/TRIBAL SCHOOLS OR VIA THE BUREAU OF INDIAN AFFAIRS, THE OMMUNITY/TRIBAL SCHOOLS MUST BE DESIGNATED AS LOCAL EDUCATION AGENCIES. TUDENTS IN COMMUNITY/TRIBAL SCHOOLS DO NOT HAVE EQUAL ACCESS TO ALL DOE ROGRAMS. IF THIS IS NOT DONE, CONGRESS IS AUTHORIZING DOE TO DISCRIMINATE GAINST COMMUNITY/TRIBAL SCHOOL STUDENTS.

TESTIMONY OF
LORENA M. BAHE, EXECUTIVE DIRECTOR
ASSOCIATION OF NAVAJO COMMUNITY CONTROLLED SCHOOL BOARDS
BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

October 27, 1989

Yá á t'eeh, Mr. Chairman and Members of the Committee. My name is Lorena Bahe. I am the Executive Director of the Association of Navajo Community Controlled School Boards, an association of 13 schools on the Navajo Reservation which are operated by popularly elected School Boards under Self-Determination Act contracts or Tribally Controlled School grants from the Bureau of Indian Affairs. We refer to our Association by the acronym "ANCCSB" -- a practice that I understand is quite common with federal agencies in Washington.

ANCCSB's mission is to assist local Indian school boards in exercising their self-determination rights to directly operate education programs for Navajo children; to help our schools find solutions to shared problems; to work with the Navajo Tribe on important education policy issues; and to provide a voice for these school boards in Congress, the BIA and the Department of Education on federal policies affecting the education of Indian children.

Since the focus of this hearing is the role the Department of Education plays in Indian education, I would like to address several DoEd-related matters of concern to ANCCSB.

OIE Director. The first relates to the administrative activities of the Office of Indian Education. ANCCSB is eager for the selection of a permanent Director for that Office. P.L.

100-297 gives the Director considerable new responsibility for development of and coordination of departmental policies in Indian elementary and secondary education.

We are aware that the National Advisory Council on Indian Education has submitted a list of nominees from which the Secretary of Education must select the Director. ANCCSB has reviewed the impressive credentials of John W. Tippeconnic, one of the candidates on the NACIE nomination list, and heartily supports him for the post of Director. His 20+ years of experience in educational affairs -- including classroom teacher, university professor, curriculum designer, Indian education association president and former official of the Department of Education -- make him an excellent choice for this important job.

Continuity is very important in Indian education, especially at DoEd, which serves Indian children in tribally-run schools, BIA-operated schools and public schools, and which must work with tribes in some 27 states. We need to know the people we work with at the Department and who we contact to rectify specific problems. For example, this year there was a considerable delay in getting Title VII bilingual education funds to tribal schools. With an OIE Director involved in coordinating the Department's delivery of services to Indian schools, perhaps such problems can be minimized.

ANCCSB would appreciate any assistance this Committee can provide to encourage the Secretary to make the final Director selection as soon as possible.

Even Start Program. The second matter we want to address is Indian school and Indian tribe eligibility for grant programs administered by the Department of Education, particularly the Even Start program.

ANCCSB member schools and other contract and grant schools funded by the BIA suffered a great disappointment this year when the Department of Education refused to let them compete for grants under the new "Even Start" program.

"Even Start" was created by Congress last year as a part of the Hawkins-Stafford Education Act (P.L. 100-297). It is designed for very young children whose parents have limited educational achievement and limited English proficiency. Congress realized that parents are their children's first teachers, and created this family-oriented education program to better equip parents to contribute to their children's early learning years. In essence, the program is to give youngsters in the target families an "even start" in life with children from more educationally advanced families.

This program could be of immense value in Indian reservation communities. A high percentage of Indian parents have not finished high school. In many parts of Indian country where native languages are spoken in the home, parents are often not proficient in English. I know this is the case in many households on the Navajo Reservation, where I grew up. My family spoke Navajo in our home; my siblings and I learned English when we went to school. While we want to continue to teach our children the Navajo language, we also want them to learn English at the same time so they can enjoy the same educational opportunities as other American children.

In some statutes, Congress has expressly "set aside" a portion of grant funding for Indian schools or otherwise expressly stated that Indian schools are eligible applicants. Since Indian schools were not expressly mentioned in the Even Start statute, DoEd decided they had no status at all, not even the opportunity to compete on an equal basis with state-funded public schools.

The Department has drafted an amendment to the Even Start law which, if enacted, would make Indian tribes and schools operated by tribes or tribal organizations eligible for Even Start grants. We seek the Committee's support and advocacy of this amendment.

The amendment would allow tribes and tribal organizations to compete equally with public schools for DoEd-awarded grants in years when the Even Start appropriations are less than $50 million. (For fiscal year 1990, Congress has recommended an appropriation of $24.5 million.)

In higher funding years -- when Even Start appropriations reach $50 million -- current law requires that block grants be made directly to states who make grants to individual school applicants. The Indian amendment would create the equivalent of a block grant for Indian applicants, with the DoEd administering the funds set aside for this purpose. While DoEd did not suggest what portion of the appropriation should be set aside for the Indian grants, ANCCSB recommends 3%, the same percentage reserved for Migrant Programs.

We would like to see an Even Start amendment enacted as soon as possible so that Indian children can have a chance to benefit from this program in 1990. We suggest that perhaps the amendment could be added to the Vocational Education bill currently being considered by the Senate Labor and Human Resources Committee. Any assistance this Committee can provide in that regard will be greatly appreciated.

Other DoEd Grant Programs. We fear that Even Start is but one example of federal education grant programs closed to Indian schools and Indian tribes because DoEd interprets the authorizing statutes as excluding them from eligibility. It is for this reason that we asked the Department to survey each of its elementary and secondary grant programs and indicate whether the Department deems Indian schools/tribes eligible or ineligible applicants. If statutory amendments are necessary, we hope we can count on this Committee to support them.

White House Conference on Indian Education. Mr. Chairman, the Indian education community thanks this Committee for designing the P.L. 100-297 statutory framework for the White House Conference on Indian Education. We look forward to helping with the planning of and participating in this important event. There is a problem, however, with which we need the Committee's help.

P.L. 100-297 authorized funding for the Conference for fiscal year 1990, only. Through the efforts of many members of this Committee -- particularly Senator DeConcini -- Congress agreed to appropriate $500,000 in FY1990 to begin Conference planning. This clearly will not be sufficient funding. We ask, therefore, that the Committee take steps to amend the law to authorize the appropriation of funds in FY1991, also, the year in which the law requires the President to call this Conference.

Mr. Chairman, it was a pleasure to appear before you today. I will be happy to answer any questions you have.

PREPARED STATEMENT OF KAREN J. FUNK, LEGISLATIVE ANALYST, NATIONAL INDIAN EDUCATION ASSOCIATION, WASHINGTON, DC

The National Indian Education Association is pleased to present testimony before this Committee on Department of Education programs as they apply to Indian and Alaska Native people.

The Department of Education has a much greater effect on Indian schools than on public schools generally. By the term "Indian schools", we refer to tribal contract and grant, BIA and public schools with large numbers of Indian students. Only 7% of funding spent on education in this country is federal money, but for Indian schools federal monies are the primary source of funding. Federal budget cuts and sequestrations have an immediate and negative impact on Indian schools. Indian Education Act, Chapter 1 and Impact Aid monies are the funding foundation for Indian schools. For Bureau-funded elementary and secondary schools, the funding from the BIA also plays a significant role in those schools' budgets.

Department of Education Initiatives. The National Indian Education Association held its annual conference in Anchorage earlier this month, and Secretary of Education Cavazos participated in that conference. In his keynote address to the NIEA members, the Secretary announced two very welcome initiatives: (1) the creation of an Indian/Alaska Native education database, and (2) a study of Indian/Alaska Native education.

NIEA and others in the Indian education field have been advocating for some time for the creation and upkeep of an Indian education database. While we have statistical information specific to certain schools or areas, often our data is out of date, not national in scope and/or is not broken down in such a way as to be as useful as it might be, i.e., divisions of information by tribal, BIA, public, private, on-reservation and off-reservation categories. Education statistics frequently include no Indian/Alaska Native information or, as in the case of a recent National Center for Education Statistics Report, classified everyone as either Black, White, or Hispanic, with "Hispanic" being everyone who is not black or white.

In our communications with the Department of Education concerning the database, we will ask that care be taken to coordinate the Department's efforts with others who may be engaged in research and survey work so that unnecessary duplication does not occur. The Secretary specifically mentioned that one focus of the research would be the Indian/Alaska Native dropout rate. This is information we are particularly eager to have. However, the National Education Association and Arizona State University have been planning to jointly undertake such an effort, and we would want the Department of Education's and the NEA/ASU efforts to be complimentary.

NIEA is also eager that there be Native input into the design of the Department of Education's data gathering efforts so that the products are of the greatest possible benefit to schools and to tribal, state and federal governments.

Secretary Cavazos said he intends the study on Indian/Alaska Native education be comparable to the landmark "A Nation at Risk" report and, indeed, will entitle the study "Indian Nations at Risk." The report, which is scheduled to be completed in one year, is intended to look at the status of education for Indian and Alaska Native people and to identify and analyze programs that succeed and those that fail. Secretary Cavazos told the NIEA conferees that his hope is that the study will help develop an action plan for Indian education and feed into the deliberations of the White House Conference on Indian Education.

Bureau-funded Schools' Access to DOE Programs. NIEA is disturbed by the inconsistent treatment Bureau-funded schools receive under the law and under Department of Education legal interpretations regarding eligibility for DOE grant programs. Often the laws authorizing DOE grant programs are silent or vague or narrowly interpreted with regard to Bureau-funded schools' eligibility for funding. Efforts by the Association of Navajo Community Controlled Schools Boards (ANCCSB) and NIEA to bring this issue to the attention of the Department of Education may bring some good results. The Department ruled this year that Bureau-funded schools are not eligible for the Even Start Program. While the law is not explicit on this point, we felt that there was a legal case that the schools are eligible for the program.

That experience, however, resulted in a request by ANCCSB and NIEA that the Department survey all of its grant programs in the Division of Elementary and Secondary Education and let us know for which grant programs they feel Bureau-funded schools are eligible, for which they are not eligible and those for which we need legal clarification. The Department agreed to this request and we expect the survey to be available in the near future. We expect to then prepare a legislative package of amendments which will clarify the eligibility of Bureau-funded schools for a number of grant programs currently denied them.

The support of the Senate Select Committee on Indian Affairs will be critical to this legislative effort, and we look forward to working with you on this matter.

Vocational Education. NIEA testified before this Committee, September 15th, on vocational education legislation. We will not repeat that testimony here, but want to reemphasize the fact that under current law Bureau-funded schools have to compete annually for a limited pot of vocational education monies. Under the House-passed vocational education bill, H.R. 7, public secondary schools will receive vocational education monies based primarily on their number of Chapter 1 and Handicapped-eligible students, while Bureau-funded secondary schools will have to compete with other Indian organizations for monies. Certainly all the Bureau-funded secondary schools, if they were defined as LEAs, would automatically qualify under H.R. 7 for funding. We have been working with your Committee on getting language in the Senate's version of the vocational education legislation which would provide Bureau-funded schools a stable funding base of vocational education monies.

NIEA supports the formula in HR. 7 for distribution of vocational education monies to public schools, and feels that it will benefit public schools with Native students.

Indian Education Act Programs. NIEA urges the Department to fill the position of Director for the Office of Indian Education as soon as possible, and to fill the vacancies in that office utilizing Indian preference. NIEA adopted a resolution at its recent conference supporting the choice for Director pursuant to the priorities of the National Advisory Council on Indian Education. We seem to be in a perpetual state of limbo at the Office of Indian Education (and at the BIA's Office of Indian Education Programs) because of people working in acting capacities and because of unfilled positions.

Funding for the Indian Education Act (Title V), the major Indian-specific program in the Department of Education, has not kept up with inflation. If funding for the Indian Education Act had increased commensurate with an average rate of education inflation of 7.5% since FY1981 when the appropriation was $81.6 million, the program would now be receiving $155 million instead of the $74 million FY1990 appropriation. An example of increased costs which the Title V programs have had to absorb is fringe benefits. A Title V program in Washington reports to us that mandatory costs increases for fringe benefits for personnel have doubled in the past five years, but no funds have been made available to cover this specific cost. The result has been people laid off and positions not filled even though the number of students being served by the program has increased.

NIEA supports the efforts of Alaska Natives to have a regional Resource and Evaluation Center established in Alaska. Currently, there are five regional Resource and Evaluation Centers which provide technical assistance to Indian Education grantees, LEAs, SEAs, Tribes and Indian Organizations. The DOE contracts for these Centers under the authority of the Indian Education Act.

The regional Center which serves Alaska is in Spokane, Washington. That Center also serves the states of Oregon, Washington and Idaho. Alaska has 48 Indian Education program grantees with 21,501 eligible students plus there are other potential grantees within the State. However, only 25% of the 48 current Alaska grantees have ever received services from their regional Resource and Evaluation center. We believe that geographic considerations make it imperative that a regional Resource and Evaluation Center be located in Alaska. We understand that the travel costs last year associated with travel from the regional Center in Spokane was $40,000. This is not an efficient use of money and it would be better spent in providing direct services in Alaska. The Department of Education is currently accepting comments on a pre-soliciation notice to establish a Resource and Evaluation Center in Alaska, and we urge your support for the establishment of this Center.

NIEA would like the Department to work with Indian tribes and organizations to develop a requirement that students receiving Indian Education Act fellowships be required to work for a certain period of time in programs which serve Indian or Alaska Native people. The IHS scholarship and loan repayment programs carry this type of requirement, and we believe it is appropriate to ask recipients of Indian Education Act fellowships to do likewise.

Our final comment on the Indian Education Act programs is a word of appreciation to the Office of Indian Education for changing the Adult Education Grants back to a three-year cycle. The program used to be funded on a 3-year staggered basis, but in recent years was changed to a 2-year cycle. Two-year programs do not provide an adequate amount of time for Native people who are learning to read and write to complete their GEDs. Termination of the programs at the end of two years has caused many people to not complete their courses of study. NIEA testified on this matter in our FY1990 appropriations testimony, and we appreciate the quick response of the Department of Education.

Adult Education. NIEA supports amending the Adult Education Act to provide a 2% allocation of monies to tribes and tribal organizations. Currently, funding goes to states who do not generally provide monies to tribes. The FY1990 appropriation for adult education grants to states under the Adult Education Act is $160 million, up from a FY1989 funding level of $136 million. Many laws contain tribal allocations of monies. Direct allocation of federal monies to tribal governments is consistent with their legal status. In addition, education, social and other programs can better serve Indian and Alaska Native people if they are tribally designed and administered.

NIEA advocates for a study of the number of Native adults and the level of education services being provided by the DOE and the BIA to Native adults. We need better statistical information and evaluation of projects in order to prepare for the next reauthorization of the Indian Education Act in 1993.

We also suggest that a National Technical Assistance Center for Indian Adults be established. Adult education grantees are scattered throughout the country, and there is no way that each grantee or the Resource Centers can each hire a person with expertise in Indian/Alaska Native adult education. A National Technical Assistance Center for Indian Adults would fill this need in a cost-efficient manner.

Gifted and Talented. P.L. 100-297 authorized the establishment at the tribal colleges of two Gifted and Talented Centers dedicated to provide research and assistance for gifted and talented programs for Native people. The establishment of these Centers is critical to any serious effort to provide services to Native gifted and talented students. We need to programmatically test the gifted and talented identification procedures, apply recently-developed concepts in the gifted and talented area, develop in-school and alternate school programs, follow the progress of gifted and talented students and initiate research in teaching methodologies for Native gifted and talented students. The Office of Indian Education had $500,000 in FY1989 monies to begin working on a Gifted and Talented program. This money was not obligated in FY1989 and has been carried over to FY1990.

Standardization of Grant Application Scores. We believe that the awarding of competitive grants under the Library Services and Construction Act, the Title III program and the TRIO programs are often dependent upon the luck of the draw with regard to the review panel. These particular programs have, as with other grant programs, numerous panels of field readers who review the application. Because the raw scores are not standardized, the applicant who is successful is likely the applicant who got a panel which tended to give higher scores. The Indian Education Act and Indian vocational education competitive grant applications are awarded using standardized scores, and we believe this is a fair method. We urge that the Library Services and Construction Act, Title III and TRIO programs grant process be changed to require standard deviation of field reader scores.

Title III. The funding distribution formula for the competitive grants for the Title III or Developing Institutions program, in addition to adopting a standard deviation on application scores, needs to be changed to provide for a separate allocation for tribally controlled colleges. There is, as you know, an allocation under the Title III program for historically black colleges. The historically black colleges will receive about half of the Title III funding in FY1990, or $85 million.

Tribally controlled colleges are certainly developing institutions and institutions which serve predominately minority students. Tribal colleges have had difficulty accessing Title III monies. For instance, this year, Sinte Gleska College, which has a student population that is 75% Indian, received a score of 90 on its Title III application. They were not funded, but a school in Puerto Rico, which serves 100% minority people, but scored only 65 on its application, was awarded a Title III grant.

Fetal Alcohol Syndrome Initiative. Efforts to prevent fetal alcohol syndrome (FAS) and fetal alcohol effect (FAE) are gaining more attention and NIEA fully supports expanding these efforts. FAS and FAE are tragic and preventable situations whose victims are all innocent people. We also, however, want to work in the schools with students and adults who have FAS and FAE. Schools have little information on how to diagnose the varying symptoms of FAS and FAE, how to react to these diseases, or how to create or modify school curricula which will serve FAS and FAE victims.

There must be untold thousands -- or hundreds of thousands -- of Indian and Alaska Native people who are the victims of FAS or FAE, people who have been misdiagnosed, people who have been labeled troublemakers, and, certainly, many of whom are in prison. We do not want to give up on this generation of school children nor on the several generations of adults who may be affected by FAS and FAE.

Some members of this Committee may have read the wrenching book by Michael Dorris, Broken Cord. Dorris adopted a Sioux child who, as it turned out, is severely affected by FAS. His story of years of work with his son and the lack of knowledge by those in the medical and counseling fields shows very clearly what we are up against with FAS. We understand that the movie rights have been bought for this book, and expect the movie will provide a catalyst for public action on this issue. NIEA would like to work with the Department of Education, BIA and IHS on the issue of appropriate education techniques and curricula for young people and adults who suffer from the wide array of FAS and FAE disabilities.

DEPARTMENT OF EDUCATION

Witnesses appearing before the
Senate Select Committee on Indian Affairs

Daniel F. Bonner

Acting Assistant Secretary for
Elementary and Secondary Education

accompanied by

A. Neal Shedd, Acting Director, Office of Indian Education Programs, Office of Elementary and Secondary Education

Thomas M. Corwin, Director, Division of Elementary, Secondary, and Vocational Analysis, Office of Planning, Budget, and Evaluation

October 27, 1989

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DEPARTMENT OF EDUCATION

Statement by the Acting Assistant Secretary f

Elementary and Secondary Education

on

Indian Education

October 27, 1989

Mr. Chairman and Members of the Committee:

I am happy to be here today on behalf of Secretary Cavazos to discuss matters pertaining to programs in the Office of Indian Education as well as other programs that benefit Indians and are administered elsewhere in the Department of Education. With me today are Neal Shedd, Acting Director of the Office of Indian Education, and Thomas Corwin, Director of the Division of Elementary, Secondary, and Vocational Analysis in the Department's Office of Planning, Budget, and Evaluation.

In your letters to Secretary Cavazos requesting this hearing, you listed several issues that you wished to discuss. I will address each of those issues in turn.

Indian Education Act Programs

The Office of Indian Education administers a wide array of programs authorized by the Indian Education Act of 1988. These programs currently receive a combined appropriation of $71.4 million. The bulk of the funds — about $52 million -- is distributed by formula primarily to public school districts, but also to tribally operated and Bureau of Indian Affairs schools. The amount of funds going to each district or Indian school is based on the number of Indian children enrolled. These funds are used to supplement the regular school program by providing educational services designed to meet particular needs of the Indian children. Local projects are characterized by an especially high level of parental involvement.

Your letter of October 4th raised a concern about the timing of the 1989 formula grant awards. It is true that awards were made later than usual this year. The delay was caused by a number of factors related to reauthorization of the program, including the newly authorized eligibility of BIA-operated schools. However, notification letters were mailed to all grantees by August 11th. Further, to ensure that there would be no lapse in services from one fiscal year's grant to the next, the Department authorized grantees to expend funds for appropriate pre-award costs. For school districts with special problems, we "faxed" copies of grant award letters confirming this authorization. All fiscal year 1989 funds were obligated by the Department before September 30, 1989. Now that the Department has implemented the provisions of the 1988 reauthorization, this delay should not recur in the future.

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In addition to the formula grant program, the Indian Education Act authorizes several competitive grant programs. The $18 million for these programs are provided primarily to tribes, Indian educational organizations, and colleges and universities. They support such activities as early childhood programs, dropout prevention, adult education, technical assistance to grantees, training of Indian teachers and school administrators, and fellowships for graduate and undergraduate students.

Your letter of October 4th also questioned the timing of the fellowship awards. The statute governing this program requires the Secretary to provide written notification to fellowship recipients no later than 45 days prior to the beginning of the academic term. The Department complied with this requirement. The actual obligation of funds could not take place until after July 19th, because regulations implementing the newly reauthorized program were not final until that date -- due, in part, to the delayed effective date provisions of the General Education Provisions Act.

Other Department of Education Programs

In addition to the programs authorized by the Indian Education Act, the Department of Education administers many other programs that provide educational services to Indians. Indian students participate in most of these programs on the same basis as the rest of the population -- that is, to the extent that they meet eligibility criteria related to educational need. The programs are generally targeted to public schools and include, for example, the Chapter 2 block grant, the Drug-Free Schools State Grant program, Education for Homeless Children and Youth, Bilingual Education, Magnet Schools Assistance, Migrant Education, the Chapter 1 LEA Grants program, many of the Special Education programs for the handicapped, and a host of small discretionary programs.

In addition, several of the Department's programs contain set-asides of funds specifically for Indians -- usually those attending Bureau of Indian Affairs Schools. In accordance with your request, we are providing the Committee with detailed descriptions of these programs, including budgetary and organizational information. These include Vocational Education, Compensatory Education programs authorized by Chapter 1, Mathematics and Science Education, Library Programs, Drug-Free Schools and Communities, Education of the Handicapped Act-Part B, and Programs for Handicapped Infants and Toddlers. In addition, many public schools enrolling Indian students receive funding from the Impact Aid program.

In March of this year, the Office of Indian Education began a new coordination effort by holding a two-day conference to share information among OIE staff, coordinators or directors of State Indian education programs, managers of "set-aside programs" for Indians, and directors of the Indian Education Regional Resource Centers. Because the Office is newly authorized to coordinate the development of policies and practices for all Department programs serving Indians, we have created a new staff position to aid coordination of policy development among those programs.

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Additionally, staff of OIE are working with an informal interagency committee to conduct a policy review of each agency's Indian programs, and they also have membership on the White House Task Force on Indian Affairs, which meets monthly. The Task Force is chaired by Mary McClure, Special Assistant to the President for Indian Affairs.

Director of the Office of Indian Education

The remaining issues raised in your letters concern the administration of the Office of Indian Education -- namely, appointment of a director for the office, filling other staff positions, and implementing new statutory provisions that require the application of Indian preference.

The Director of the Office of Indian Education is a career position in the Senior Executive Service. Following the death of the previous director, Mr. John Sam, the Department advertised the position and evaluated the applications in accordance with Office of Personnel Management procedures. Next, as required by the Indian Education Act, a list of qualified applicants was submitted to the National Advisory Council on Indian Education, which, in turn, gave the Department its recommendations. I personally interviewed each candidate and submitted my recommendation to the Secretary. At this point we received a number of allegations concerning some of the candidates. These allegations were turned over to the Department's Office of Inspector General for investigation. The hiring procedures have been suspended until the investigations are complete. Secretary Cavazos and I are quite anxious to have this position filled, and we are working diligently toward that end.

Staffing the Office of Indian Education

On the matter of fully staffing the Office of Indian Education, we are moving ahead and expect to have choices made on several newly created mid-level management positions next month. Selection certificates were submitted to us on Tuesday, October 24th. There were eligible Indian applicants for each vacancy.

Indian Preference

As you know, the reauthorized Indian Education Act of 1988 requires the Department to apply Indian preference in filling all positions in the Office of Indian Education. It also requires that non-Indian members of the staff be given a one-time preference when they apply for positions outside the office. Because we have had no previous experience in implementing such preferences and because the legal ramifications are complicated, it has taken a while to develop the policies and procedures to implement the new requirements. However, we have done that and are currently applying the preference policies in filling all the vacancies.

On a personal note, Mr. Chairman, two years ago the Department of Education was very fortunate to hire Mr. John Sam as Director of the Office of Indian Education. Mr. Sam brought to that position a wealth of experience and talent, as well as a deep and personal understanding of the educational needs of Indian children and adults. Because he believed that the office was not

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administratively organized to produce the best possible delivery of services, Mr. Sam proposed a new organizational structure. Among other things, that new structure created several badly needed mid-level management positions that will help put the office on a sounder management footing and will provide opportunities for professional growth among Office of Indian Education employees. Although John died before he was able to hire new staff, it is his reorganization that we are implementing, and the positions for that reorganization that we are in the process of filling.

Commitment of the Secretary

Mr. Chairman, I would like to close by assuring you that Secretary Cavazos has placed the improvement of educational opportunities for Indian students high on his list of priorities. In fact, soon after becoming Secretary, he and Interior Secretary Lujan travelled West together to visit schools attended by Indian children. Secretary Cavazos returned convinced that a tremendous amount of work and commitment is necessary if we are to improve learning conditions for these children. He is also convinced that cooperation between our two agencies is essential. We believe we are establishing a good record of cooperation and coordination with the Department of the Interior's Bureau of Indian Affairs. We have negotiated memoranda of agreement to transfer funds under the Drug-Free Schools Act, Chapter 1, and other programs to bring the benefits of these programs to children attending BIA and contract schools. The Office of Indian Education has been working closely with the Office of Indian Education Programs at the BIA, and this year, for the first time as required under new provisions in our reauthorized legislation, we have transferred $2.6 million to BIA schools for supplemental services under subpart 1 of the Indian Education Act. We are also making every effort to back up these dollars with technical assistance services from our staff and our five regional resource centers.

Mr. Chairman, I have given you an overview of programs within the Department of Education that benefit Indian children, and I have tried to address each one of the concerns of the Committee as stated in your letters to Secretary Cavazos. My colleagues and I will be happy to answer any questions you may have.

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COMPARISON OF HIGHER EDUCATION FUNDING FOR INDIANS AND OTHER FEDERALLY SUBSIDIZED SCHOOLS

Most of the Department of Education's funding for Indians is for elementary and secondary education programs. Some activities are focused on postsecondary education, however. These include the Educational Personnel Development (fiscal year 1990 appropriation of $2,231,000) and Fellowship (fiscal year 1990 appropriation of $1,587,000) activities under the Indian Education program. In addition, for the past five years, grants totalling $2.1-2.4 million per year have been awarded to Indian colleges and universities under the Developing Institutions program. Indian higher education institutions are also eligible for grants under the Minority Science Improvement program. The Bureau of Indian Affairs also provides some $30 million annually for Indian institutions for higher education, including funding for the Tribally Controlled Community Colleges.

These sums compare to 1990 appropriations of $182.4 million for Howard University, $36.1 million for the National Technical Institute for the Deaf, and $67.6 million for Gallaudet University.

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DRUG-FREE SCHOOLS FUNDING FOR BIA SCHOOLS

For fiscal year 1989, State grants under the Drug-Free Schools and Communities program provided a total of $198,978,500 to SEAs and LEAs in 52 States. These grants provided an average of approxitely $4.38 per student enrolled in all public and private elementary and secondary schools in the States. In comparison, the $3,475,000 transferred to the BIA for the Program for Indian Youth amounted to an average of approximately $88.24 per student enrolled in all BIA schools.

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF LEGISLATION

January 12, 1990

Honorable Daniel K. Inouye
Chairman
Select Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Inouye:

This is in response to your letter of November 13, 1989, to Acting Assistant Secretary Daniel Bonner in which you requested additional information on the programs and policies of the Office of Indian Education subsequent to the October 27 hearing. On behalf of Mr. Bonner, I am happy to provide you with this information.

If the Office of Legislation can be of additional assistance, please do not hesitate to contact us.

Sincerely,

Nancy

Nancy Mohr Kennedy

400 MARYLAND AVE., S.W. WASHINGTON, D.C. 20202

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QUESTIONS SUBMITTED BY THE COMMITTEE

ASSESSMENTS OF PROGRAM EFFECTIVENESS

Question: Even though few formal evaluations have been conducted of programs intended to benefit Indians, a continuing responsibility of any manager is to monitor and evaluate the effectiveness of programs administered. Since grantees are required to identify goals and report on their success or failure in achieving such goals, program managers in the Department of Education should be able to provide you with assessments of the effectiveness of the programs. Please provide us with such assessments for each program administered.

Answer: Information on effectiveness is not available at this time for each and every program intended to benefit Indians. The reports that follow for certain programs are gleaned from formal evaluations or from more informal data collection or program reports.

For Chapter 1 Grants to LEAs, achievement data were reported by 47 States, the District of Columbia, and the Bureau of Indian Affairs for school year 1985-86 for 67 percent of Chapter 1 students in grades 2 through 12 who received reading instruction and for 61 percent of those Chapter 1 students who received mathematics instruction. For students tested on an annual cycle in reading, the largest gains were reported in grades 4 though 6, with a high of five percentage points in grade 6, while no change was reported for grade 12. For students tested on an annual cycle in mathematics, gains were reported for all grades, ranging from nine percentage points in grade 5 to two points in grade 12. While the impact of Chapter 1 on these performance gains is unknown, students receiving Chapter 1 services show larger increases in achievement test scores than comparable students who do not.

The first activities under the Drug-Free Schools program for Indian students were initiated in fiscal year 1988. Information on program effectiveness is not available.

The Impact Aid program has no requirements for the use of maintenance and operations funds distributed on behalf of Indian children. Therefore, no measure of effectiveness is applicable. Construction funds under this program are provided to school districts serving Indian children on the basis of need. Again, no measure of effectiveness is applicable.

A review of the accomplishments of recipients of discretionary grants under the Library Services for Indian Tribes and Hawaiian Natives program was completed in 1989. This review found that most basic grant recipients used their funds to purchase library materials and pay salary supplements to library staff to increase the hours of library service and access for tribal members. Special grant recipients used funds for the salaries and training of library personnel, the purchase of library materials, and construction or purchase of library facilities. Two special grant recipients are using their funds to establish tribal libraries that are intended to

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become the premier repositories of materials relating to the histories of their tribes.

A very small review of the Minority Science Improvement program was conducted several years ago. Ten participating institutions were visited, and they reported that the program had been of value in improving the quality of the science departments in those schools. At those schools where permanent laboratory equipment was acquired, instruction was found to have improved.

The Indian Education Fellowship program is currently undergoing a formal program review. A contractor for the Office of Planning, Budget, and Evaluation is conducting a study of the program through data collection from three sources: (1) the program files on fellowship recipients, (2) questionnaires sent to past and current Fellows, and (3) telephone interviews with staff at the institutions of higher education attended by the Fellows. This study will attempt to contact all Fellowship recipients for fiscal years 1985-89 to solicit information on degree progress or completion, subsequent employment, and involvement with the Indian community. The study has just begun and is expected to be completed in about a year. We hope that this will be the beginning of a systematic review of all Indian Education program activities. While evaluations of some program activities have been conducted in the past, many of these occurred some time ago and need to be updated.

IMPROVEMENTS IN EDUCATIONAL ACHIEVEMENT

Question: Please describe improvements in the educational achievement of Indian children and youth resulting from Office of Indian Education Act programs.

Answer: Some formula grant recipients indicate in their final performance reports that their students show gains in academic performance, such as increases in scores on standardized tests, improved report card grades, increased graduation rates, or increased school attendance. However, it would be nearly impossible to attribute changes in educational achievement for Indian students to the Indian Education programs or any other single factor. There are simply too many variables that may contribute to such changes to be able to isolate those for which the Indian Education program is responsible.

PROGRAM MONITORING PLANS

Question: What plans does the Office of Indian Education have for monitoring its programs this year?

Answer: As required by statute, the program office will monitor at least one-fourth of all Subpart 1 grantees through site visits or telephone reviews. In addition, program staff will revisit grantees where significant deficiencies were found during previous audits to see that corrective action has been taken or is planned and to provide technical assistance where needed. They will also visit as many discretionary grant recipients as time and funds allow and will monitor the activities of the regional resource centers on a continuing basis through site visits, conferences and training sessions with staff from all centers, and review of all center products.

Question: Does such monitoring include consultation with parent committees, and if so, please explain the results of such consultation.

Answer: Office of Indian Education (OIE) monitoring procedures require that parent committee members be consulted by staff during audits of grantees to determine the parents' assessment of the progress of grantees in meeting their project objectives and to learn of the level of parent participation in the planning, development, and evaluation of program activities. Such consultations have informed parents of their rights and responsibilities under the program and have resulted in increased parental involvement in project activities.

CHANGES IN FORMULA GRANT NEEDS OR PROGRAMS

Question: What do your analyses of formula grant applications reveal about changing needs or programs?

Answer: The needs identified by applicants have remained fairly stable in recent years. Although there is some regional variation, the most frequently cited needs are to reinforce cultural education and improve basic education skills.

REPORTING REQUIREMENTS FOR GRANTEES

Question: Please describe the reporting requirements of both formula and discretionary grantees, and explain how this information affects the administration of the programs or the grants.

Answer: The Education Department General Administrative Regulations (EDGAR) require all grantees to submit annual performance and financial reports after the expiration or termination of grant support. Recipients of multi-year awards are also required to submit regular progress reports.

Information obtained from such reports is regularly used as a means to improve operation of the program and implementation of the statute and regulations. This effort includes a variety of activities such as identifying instances of non-compliance with the statute or regulations or areas where changes are needed in the administration of a grant, as well as modifying the application review process to ensure that the best applicants are selected for awards and revising procedures for monitoring or auditing grantees so that stated project objectives are met.

DISSEMINATION OF INFORMATION ON SUCCESSFUL PROGRAMS

Question: How does the Department disseminate information about successful programs, pilot projects, and demonstrations?

Answer: One of the required activities of the five regional resource and evaluation centers is to disseminate information on successful programs to grantees, potential grantees, and Indian tribes. This is accomplished through monthly newsletters, frequent workshops, and other training activities. Also, since 1987, OIE has compiled abstracts on effective projects for distribution at the annual conference of the National Indian Education Association and for dissemination to grantees.

Question: May we have a dozen or so representative flyers or other papers used in disseminating information?

Answer: Examples of regional center newsletters and a copy of the 1989 Showcase of Effective Projects are being provided to the Committee under separate cover.

ASSESSMENT OF CHAPTER 1 PROGRAM

Question: Please provide the Committee with a copy of the 1987 National Assessment of Chapter 1.

Answer: A copy of this report is being provided to the Committee under separate cover.

GIFTED AND TALENTED PROGRAM PROPOSALS

Question: Please describe the process used by the Department to solicit proposals for the Indian Gifted and Talented program.

Answer: A request for proposals (RFP) was published in Commerce Business Daily (CBD). Copies of the RFP were sent to each of the 22 tribally controlled community colleges, the American Indian Higher Education Consortium, and 47 other individuals and groups who requested copies. As indicated in the statute, eligible applicants were limited to the ten fully accredited, tribally controlled community colleges.

Question: When did the RFP go out and what was the deadline for applicants?

Answer: An announcement that an RFP was forthcoming was published in CBD on May 4, 1989. The RFP was published June 30, 1989, with a closing date of August 1, 1989.

Question: How many responses were there?

Answer: Only one of the fully accredited, tribally controlled community colleges submitted a proposal.

Question: Did any meet the minimum requirements of the RFP?

Answer: There was unanimous agreement by the technical review panel that the single applicant did not submit an acceptable proposal.

ELIGIBILITY OF INDIANS FOR ED PROGRAMS

Question: Please furnish the Committee the results of your survey identifying programs for which tribes and BIA-funded applicants would be considered eligible and programs for which they would be considered ineligible.

Insert 74A5

Answer: A copy of the chart prepared by Department staff is being provided to the Committee under separate cover.

Question: Was the Director of the Office of Indian Education consulted before the Department concluded that BIA-funded schools were not eligible for Even Start?

Answer: The Acting Director of the Indian Education program was not consulted on this issue because it was a matter of legal interpretation rather than program policy.

Question: Will the Department support an amendment to the Even Start law to make it even clearer that BIA-funded schools are eligible?

Answer: This matter is under consideration by the Administration. All programs for which Indians are not currently eligible are being reviewed in an attempt to identify appropriate policies.

ROLE OF NACIE

Question: Does the Department agree with the National Advisory Council on Indian Education's interpretation of its role as described on page two of its executive director's testimony at the hearing?

Answer: For the most part, the comments of the NACIE executive director on the role of NACIE reflect the requirements of the statute. It is not clear, however, that the statute means that NACIE should advise the Secretary of Education on any Federal education program that Indians may participate in or benefit from, regardless of the Department in which a program is located. It does not seem logical for NACIE to advise the Secretary of Education on a program located in the Department of Labor or the Department of Health and Human Services, for example.

Question: Does the Department invite Council participation in regulation drafting when such regulations affect the education of Indians?

Answer: The Department's regular consultations with the Council cover the full range of issues that relate to the education of Indians. While it may not be practical to involve the Council in the actual drafting of regulations, the Council is certainly invited to review and comment on any regulatory proposals that may affect Indian education or to suggest changes in existing regulations that would improve the implementation of program statutes or the operation of the programs affecting Indians.

ROLE OF PARENT COMMITTEES

Question: Does the Department consider parent committees to be advisory in the preparation of grant applications or is their approval a prerequisite to Departmental consideration of an application?

Answer: Parent committee approval of a formula grant application is a prerequisite for the Department's consideration of funding for the applicant. The Department requires any formula grant applicant to provide an assurance that an application was developed in consultation with the parent committee, and it must be submitted with the parent committee's written approval.

RENT CHARGES FOR OIE AND NACIE

Question: Is our information accurate that the Office of Indian Education and the National Advisory Council on Indian Education pay rent to the Department from their budgets, but that other divisions do not? If so, can this situation be remedied?

Answer: Charges for overhead expenses such as rent, telecommunications, mail, payroll processing and other services provided to the Department by the General Services Administration or other agencies are handled on a centralized basis by the Office of the Deputy Under Secretary for Management. All offices in the Department are charged on a proportional basis for their share of these central operating costs. The costs for these items are identified separately for the Office of Indian Education and the National Advisory Council on Indian Education because their funds are provided under the Interior and Related Agencies Appropriations Acts. For all other offices in the Department, these funds are included together in the Labor, Health and Human Services, Education, and Related Agencies Appropriations Acts.

DEVELOPING INSTITUTIONS GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

Question: Please provide the Committee with a report on Developing Institutions grants made to tribal community colleges over the past five years.

Answer: The following list contains this information.

DEVELOPING INSTITUTIONS GRANTS TO INDIAN COLLEGES
Fiscal Years 1985-89

Name of Institution	Amount
Fiscal Year 1985	
1. College of Ganado, AZ	$340,220
2. Navajo Community College, AZ	188,314
3. D-Q University, CA	441,584
4. Blackfeet Community College, MT	153,864
5. Dull Knife Memorial College, MT	170,830
6. Salish Kootenai College, MT	69,433
7. Flaming Rainbow University, OK	236,060
8. Ogala Lakota Community College, SD	359,808
9. Sinte Gleska College, SD	243,896
TOTAL	2,204,015

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DEVELOPING INSTITUTIONS GRANTS TO INDIAN COLLEGES (cont.)
Fiscal years 1985-89

Name of Institution	Amount
Fiscal Year 1986	
1. Navajo Community College, AZ	$157,210
2. D-Q University, CA	598,475
3. Blackfeet Community College, MT	146,132
4. Little Hoop Community College, ND	62,885
5. Turtle Mountain Community College, ND	169,824
6. Bacome College, OK	191,753
7. Flaming Rainbow University, OK	219,415
8. Ogala Lakota Community College, SD	410,498
9. Sinte Gleska College, SD	220,199
TOTAL	2,176,391
Fiscal Year 1987	
1. Navajo Community College, AZ	$252,790
2. D-Q University, CA	381,108
3. Blackfeet Community College, MT	198,594
4. Fort Peck Community College, MT	152,345
5. Salish Kootenai College, MT	323,990
6. Little Hoop Community College, ND	120,243
7. Standing Rock Community College, ND	144,150
8. Turtle Mountain Community College, ND	142,539
9. Bacome College, OK	194,587
10. Bacome College, OK	250,000
11. Sisseton-Wahpeton Community College, SD	23,840
TOTAL	2,184,187
Fiscal Year 1988	
1. Navajo Community College, AZ	$249,275
2. D-Q University, CA	382,490
3. Blackfeet Community College, MT	196,279
4. Fort Peck Community College, MT	145,849
5. Salish Kootenai College, MT	295,698
6. Little Hoop Community College, ND	192,919
7. Standing Rock Community College, ND	130,280
8. Turtle Mountain Community College, ND	118,925
9. Bacome College, OK	185,092
10. Sisseton-Wahpeton Community College, SD	189,411
TOTAL	2,086,218

Insert 74A8

DEVELOPING INSTITUTIONS GRANTS TO INDIAN COLLEGES (cont.)
Fiscal years 1985-89

Name of Institution	Amount
Fiscal Year 1989	
1. Navajo Community College, AZ	$245,618
2. D-Q University, CA	340,026
3. Fort Peck Community College, MT	115,324
4. Salish Kootenai College, MT	290,000
5. Fort Berthold Community College, ND	145,865
6. Standing Rock Community College, ND	110,541
7. United Tribes Technical College, ND	174,216
8. Ogala Lakota Community College, SD	315,647
9. Sisseton-Wahpeton Community College, SD	175,003
10. Northwest Indian College, WA	488,175
TOTAL	2,401,984

Question: How do you explain that level of participation?

Answer: The Department believes that this chart shows a very favorable participation rate for the 24 tribal colleges that comprise the American Indian Higher Education Consortium. Over the last five years, over $11 million has been awarded to these schools. During this period, program officers have met three times with tribal college representatives specifically to provide technical assistance in the preparation of competitive applications. Two of these workshops were held on site, in Montana and North Dakota.

RATING OF GRANT APPLICATIONS

Question: One witness told the Committee that grants under some programs (Library Services and Construction, Developing Institutions, and the TRIO programs) depend upon "the luck of the draw" in that scoring is not standardized, and some panels give higher scores than others. Do you agree with this criticism? If so, what actions are planned?

Answer: In general, applications for funding under the Department's programs are randomly assigned to peer review panels. So long as reviewers are asked to provide independent, confidential scores for grant applications, there will be variations in the results. The diverse backgrounds and experiences of panel members are responsible for these differences, which are not necessarily undesirable. Every attempt is made to obtain readers with the educational background and experience necessary to provide sound professional judgment on the quality of proposals submitted for funding.

In order to ensure that panelists are using objective criteria to arrive at their scores, a large portion of panel orientation is devoted to developing a common framework from which to evaluate applications. This should also eliminate unreasonable discrepancies in scores. The presence of program staff to monitor and advise panels is another precaution taken by the Department. The paneling process undergoes constant review to identify ways in which it may be improved. The Department believes that thorough orientations and careful monitoring can produce a fair and objective result, whether or not raw scores are standardized.

SECRETARY'S STUDY OF INDIAN EDUCATION

Question: Will Secretary Cavazos' study of Indian education include adult education?

Answer: The specific scope of the planned study of Indian education has not yet been determined. However, priority is expected to be given to elementary and secondary education issues.

Question: If not, are there other plans to study the issue?

Answer: There are no other specific plans to study Indian adult education. An evaluation of the adult education portion of the Indian Education program, which was completed in 1985, found that generally the services delivered by Subpart 3 projects are those that seem to be most needed by Indian adults. They concentrate on providing adult basic education and preparation for the high school equivalency examination. The study also found little duplication of services between Subpart 3 projects and those funded by other Federal programs such as the Adult Education Act or adult education activities funded by the Bureau of Indian Affairs.

TIMING OF FELLOWSHIP AND FORMULA GRANT AWARDS

Question: The Department's testimony was incomplete on the issue of timeliness of funding for fellowship recipients and formula grants for schools. Please advise the Committee of the latest dates by which grant award documents were provided to grantees and fellowship recipients.

Answer: All fellowship recipients and their institutions were notified of their awards by 45 days prior to the start of their school years, as required by statute. Funds were obligated on July 20, 1989, the effective date of new regulations for this program. Awards were processed on July 21 for all fellows whose budgets had been received and approved. All other awards were made as approved budgets were submitted.

All formula grant recipients were informed of the amounts of their grants on August 4, 1989. Issuance of grant award documents began on September 11. All funds were obligated by September 30. Delays in processing of award documents for some recipients were caused by the failure of those applicants to submit required documentation, including maintenance of effort certifications from State educational agencies. Several awards are still being held up due to lack of compliance with requirements.

Question: Have all actions for the current school year been accomplished?

Answer: In general, all award actions have been completed for the current school year. However, where revisions are made to

Insert 74A10

application data or errors are found in those data in the course of an audit or other review, the Department would take action to make appropriate adjustments.

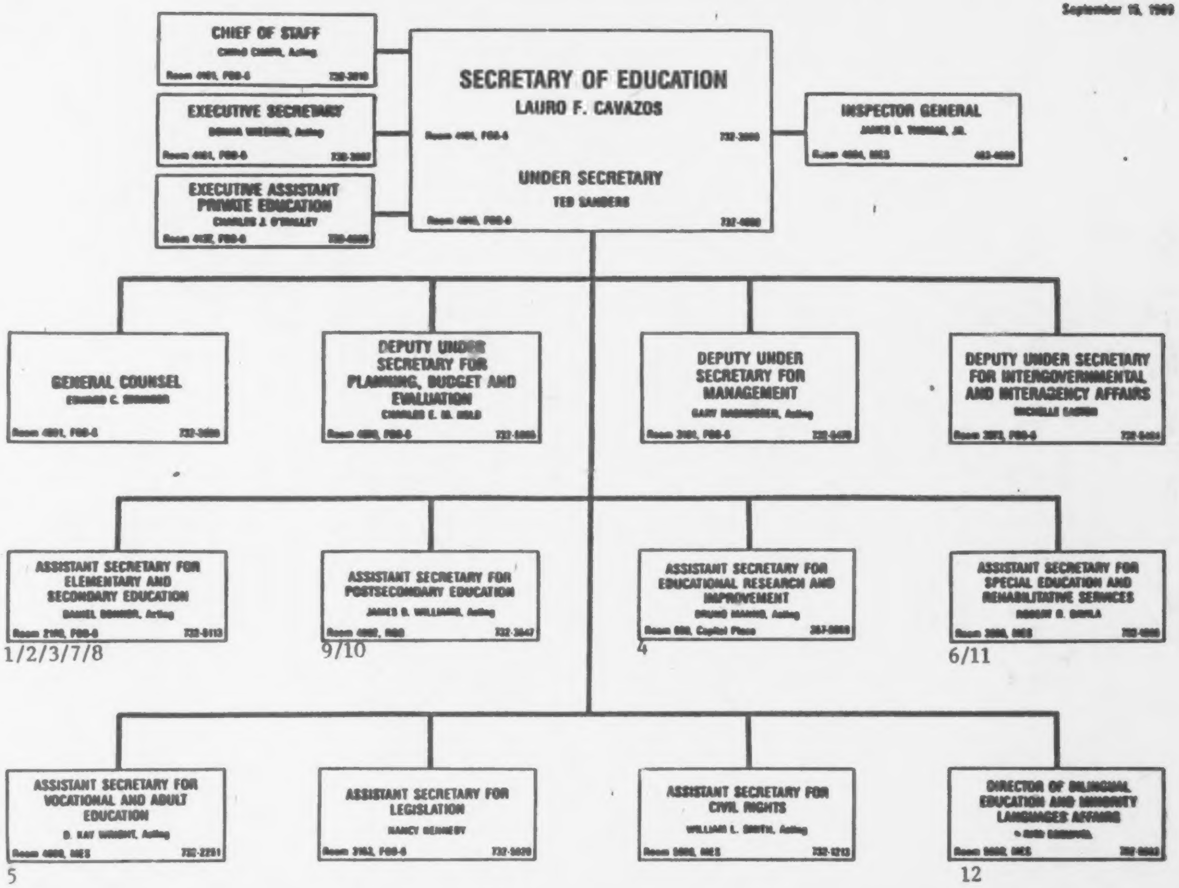
INDIAN EDUCATION STATISTICS

Question: What work has been done between the Office of Indian Education and the National Center for Education Statistics (NCES) regarding American Indian and Alaska Native education statistics? Please explain.

Answer: A number of discussions have been held between the two offices on this matter. At NCES' request, OIE reviewed and commented on the draft instruments and draft report on findings for the "High School and Beyond" study conducted by NCES. An OIE recommendation to include a larger sample of Indian students could not be implemented at that time due to budgetary constraints. OIE will continue to work with NCES to expand the data collection efforts relating to Indian students.

U.S. DEPARTMENT OF EDUCATION

September 15, 1989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DEPARTMENT OF EDUCATION FUNDS TARGETED TO INDIANS

PROGRAM

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1. IMPACT AID - MAINTENANCE AND OPERATIONS
   To compensate LEAS for the cost of educating children who reside on Indian lands.
2. IMPACT AID - CONSTRUCTION
   Direct grants to school districts serving children who reside on Indian lands for construction or repair of school facilities.
3. CHAPTER 1 - BIA SET-ASIDE
   Direct transfer of ED funds to the BIA for use at BIA-operated and contract schools. Provides compensatory education services to disadvantaged children.
4. LIBRARY SERVICES FOR TRIBES
   Direct grants to Indian tribes for the provision of library services and facilities.
5. VOCATIONAL AND ADULT EDUCATION - SET-ASIDE
   1.25% of the funds appropriated for vocational education basic grants and national programs is reserved by ED for competitive grants to Indian tribes and tribal organizations.
6. VOCATIONAL REHABILITATION
   State grants and set-aside service grants to tribes to provide vocational rehabilitation services to handicapped Indians.
7. MATH AND SCIENCE EDUCATION - SET-ASIDE
   Set aside of .5% of the total appropriation for programs for children in BIA-operated elementary and secondary schools.
8. DRUG-FREE SCHOOLS AND COMMUNITIES
   1% set-aside supporting alcohol and drug abuse and prevention programs for children served by the BIA.
9. MINORITY INSTITUTIONS SCIENCE IMPROVEMENT
   Discretionary grants to develop specific educational programs; funds reflect amount going to predominantly Indian institutions.
10. INSTITUTIONAL AID
    Discretionary grants to develop self-sufficiency at institutions; funds reflect amount going to predominantly Indian institutions.
11. EDUCATION OF THE HANDICAPPED - BIA SET-ASIDE
    1.25% of appropriation for Grants to States and Grants for Infants and families is transferred to BIA for use in BIA schools.
12. BILINGUAL EDUCATION
    Discretionary grants to Indians.

Indian Education Act Subpart 1 Program

Program Title: Formula Grants to Local Educational Agencies

FY 1989 Appropriation: $49,248,000
FY 1990 Budget Request: $49,248,000
FY 1990 Appropriation: $51,541,000

Program Purpose: To support supplemental elementary and secondary education projects designed to meet the special educational and culturally related academic needs of Indian students in public schools, tribal schools and, beginning in FY 1989, in Bureau of Indian Affairs (BIA) operated schools.

Funding Procedure: Formula grants are provided to LEAs, tribal schools and BIA-operated schools. Funds are allocated on the basis of the number of eligible Indian students claimed by each applicant. Funds are allocated first to FY 1988 grantees (the FY 1988 amount plus two percent), and the remaining are allocated to the BIA-operated schools (approx $2.6 million in FY 1989).

Funding Requirements and Limitations: Funds are used only for activities that supplement the regular school programs. The new legislation also limits FY 1989 funding to LEAs and tribal schools that were grantees in FY 1988.

Types of Activities Funded: Remedial instruction and tutoring in the basic academic skills, counseling, activities to improve communications between the home and school, cultural education activities, and drug abuse prevention education.

FY 1989

No. of Applications	1,169
No. of Awards	1,112
No. of Participating Students	240,000
No. of States with Grantees	41

Award Notification Dates: 8/11/89

Program Evaluation: The last formal evaluation study on the impact of the formula grant program was conducted in 1983. Although improvements on standardized achievement test scores could not be attributed to the formula grant projects, the study showed that student performance improvements were made in reading and mathematics. Additionally the study also showed improvements in school attendance, particularly among students with severe attendance problems, but there was an absence of documentation showing an effect on reducing the school dropout rate. The study concluded that the program had also increased opportunities for Indian students in public schools and tribal schools to learn more about their tribal culture and heritage.

Further, findings from our annual audits indicate that LEAs continue to improve their documentation of student performance and that this documentation is showing more evidence of student academic improvements.

Five-Year Funding History

FY 1990	$51,541,000
FY 1989	$49,248,000
FY 1988	$45,656,000
FY 1987	$43,700,000
FY 1986	$43,675,000

Indian Education Act Subpart 1 Program

Program Title: Indian-Controlled Schools

FY 1989 Appropriation:	$3,500,000
FY 1990 Budget Request:	$3,500,000
FY 1990 Appropriation:	$3,500,000

Program Purpose: To assist development and implementation of special enrichment programs that supplement regular elementary and secondary education programs offered by Indian-controlled schools.

Funding Procedure: Grants are awarded on a competitive basis at a total amount not exceeding 10% of the amount appropriated for Subpart 1.

Funding Requirement and Limitation: Grants are limited to schools on or near reservations that are not LEAs, or have not been LEAs for more than 3 years, including BIA schools and schools for Indian children that are not eligible for BIA funding.

Types of Activities Funded: Projects have included cultural enrichment, tutoring, counseling, remedial reading and mathematics, drug abuse prevention education, and computer-based instruction.

FY 1989

No. of Applications	32
No. of Awards	22
No. of Participating Students	5,366
No. of States with Grant Awards	11

Award Notification Dates: 6/30/89

Program Evaluation: A limited study conducted in 1986 concluded that students in Indian-controlled schools were performing below the national average on standardized achievement tests and that the per pupil cost was considerably higher than the national average.

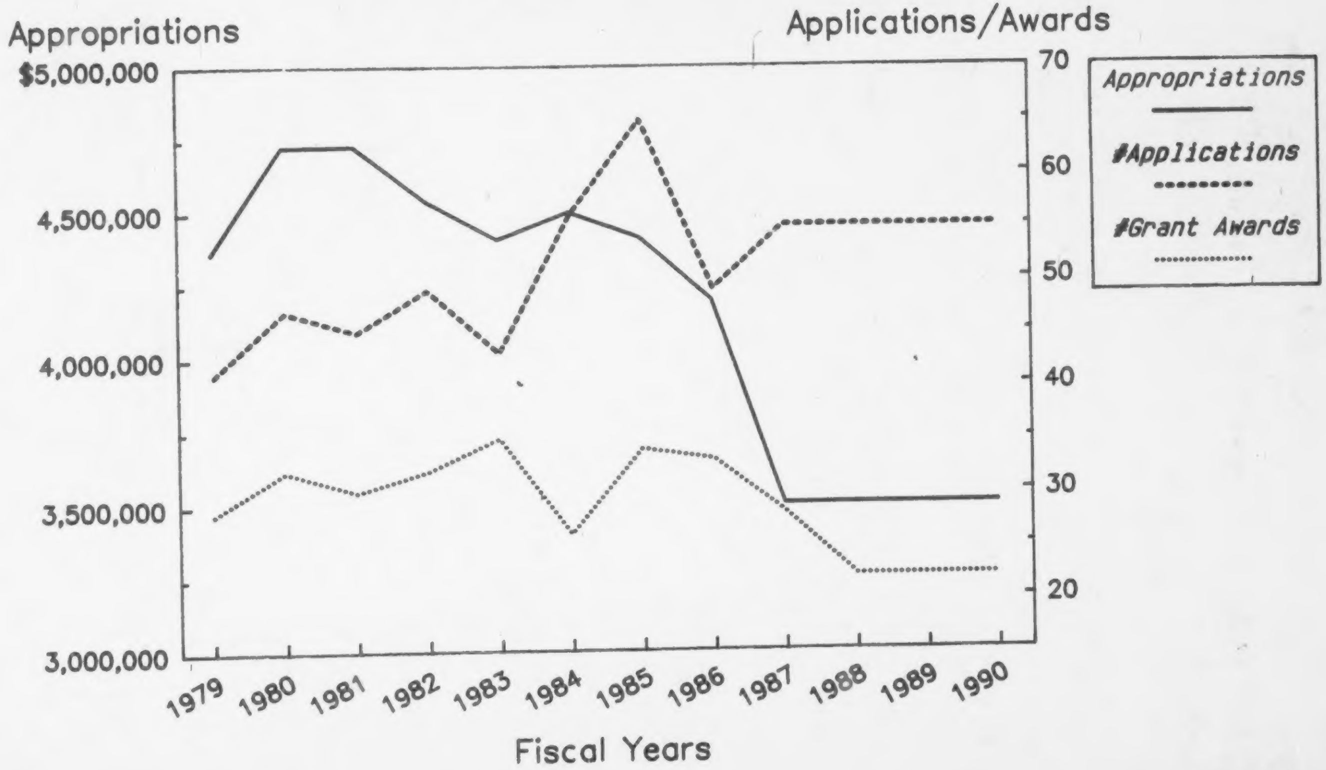
Five-Year Funding History

FY 1990	$3,500,000
FY 1989	$3,500,000
FY 1988	$3,500,000
FY 1987	$3,500,000
FY 1986	$4,195,000

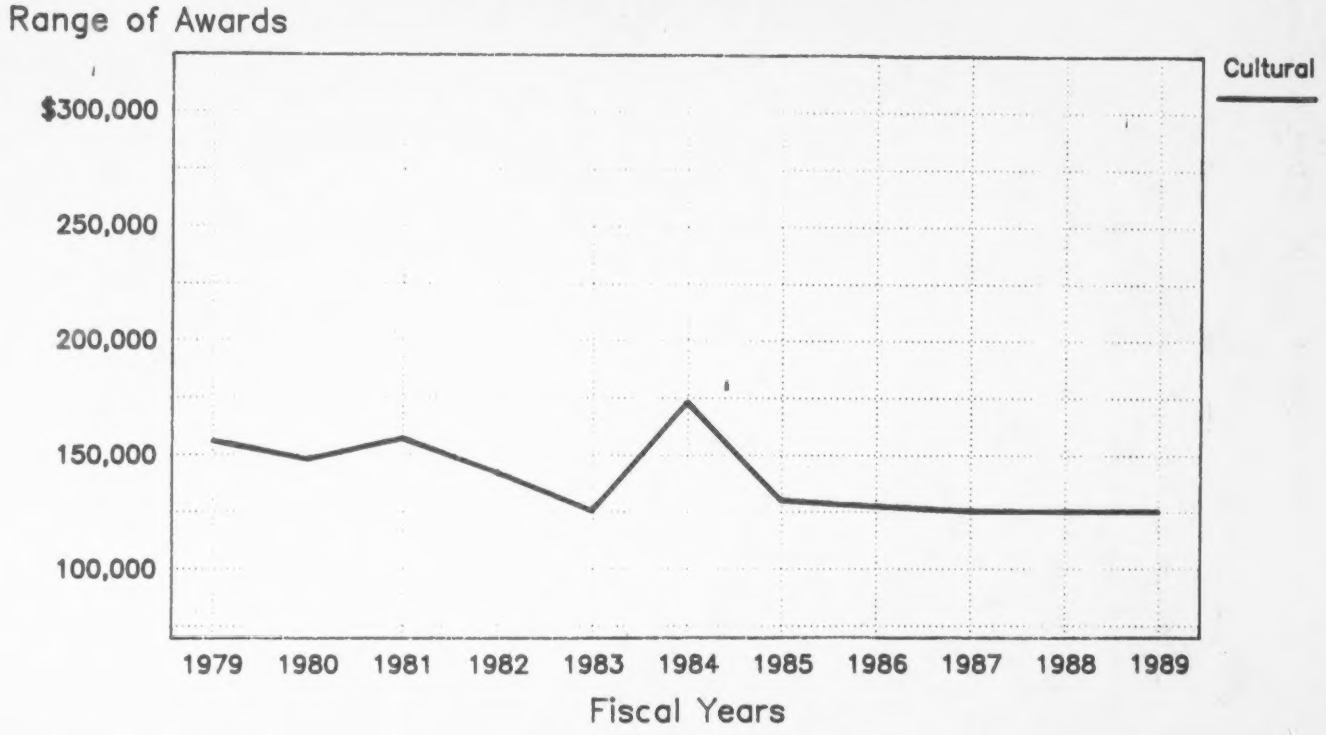
OFFICE OF INDIAN EDUCATION

Cultural Enrichment Programs

Fiscal Years 1979–1990



OFFICE OF INDIAN EDUCATION
Cultural Enrichment Programs
Average Grant Awards FY 1979–1989



Indian Education Act Subpart 2 Program

Program Title: Special Programs for Indian Students -
Educational Services Projects

FY 1989 Appropriation: $3,700,000
FY 1990 Budget Request: $4,100,000
FY 1990 Appropriation: $4,128,000

Program Purpose: To support educational programs or services for Indian preschool, elementary, and secondary school students for whom the programs or services are not available in sufficient quantity or quality.

Funding Procedure: Funds are provided through competitive discretionary grants to Indian tribes, Indian organizations, State Education Agencies (SEAs) and Local Education Agencies (LEAs). Grants may also be awarded to consortia of Indian tribes and organizations, LEAs, and higher education institutions for projects to reduce dropout rates or encourage Indian students to obtain a higher education.

Funding Requirement: Twenty-five (25) priority points are given to applicants that are Indian tribes, organizations, or institutions, including those that are members of a consortia.

Types of Activities Funded: Activities include preschool instruction, cultural heritage activities, dropout prevention activities, tutoring, special instruction for gifted and talented students, language instruction, counseling, leadership training and alcohol and drug abuse education.

FY 1989

No. of Applications........................89
No. of Awards..............................28
No. of Participating Students...........6,600
No. of States with Grant Awards............16

Award Notification Dates: 3/2/89 Continuation Grants
6/6/89 - 9/29/89 New Grants

Program Evaluation: None

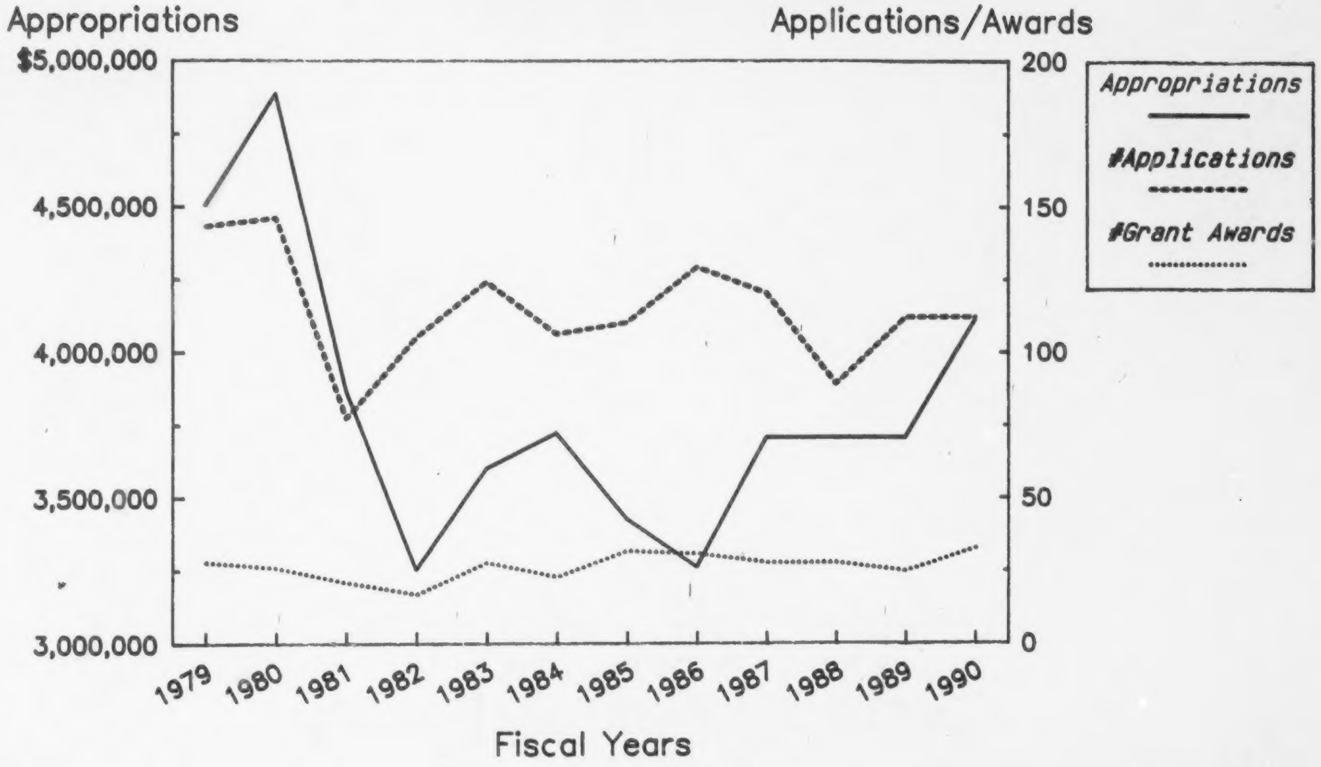
Five-Year Funding History

FY 1990	**$4,128,000**
FY 1989	**$3,710,000**
FY 1988	**$3,710,000**
FY 1987	**$3,710,000**
FY 1986	**$3,263,000**

OFFICE OF INDIAN EDUCATION

Educational Services Program

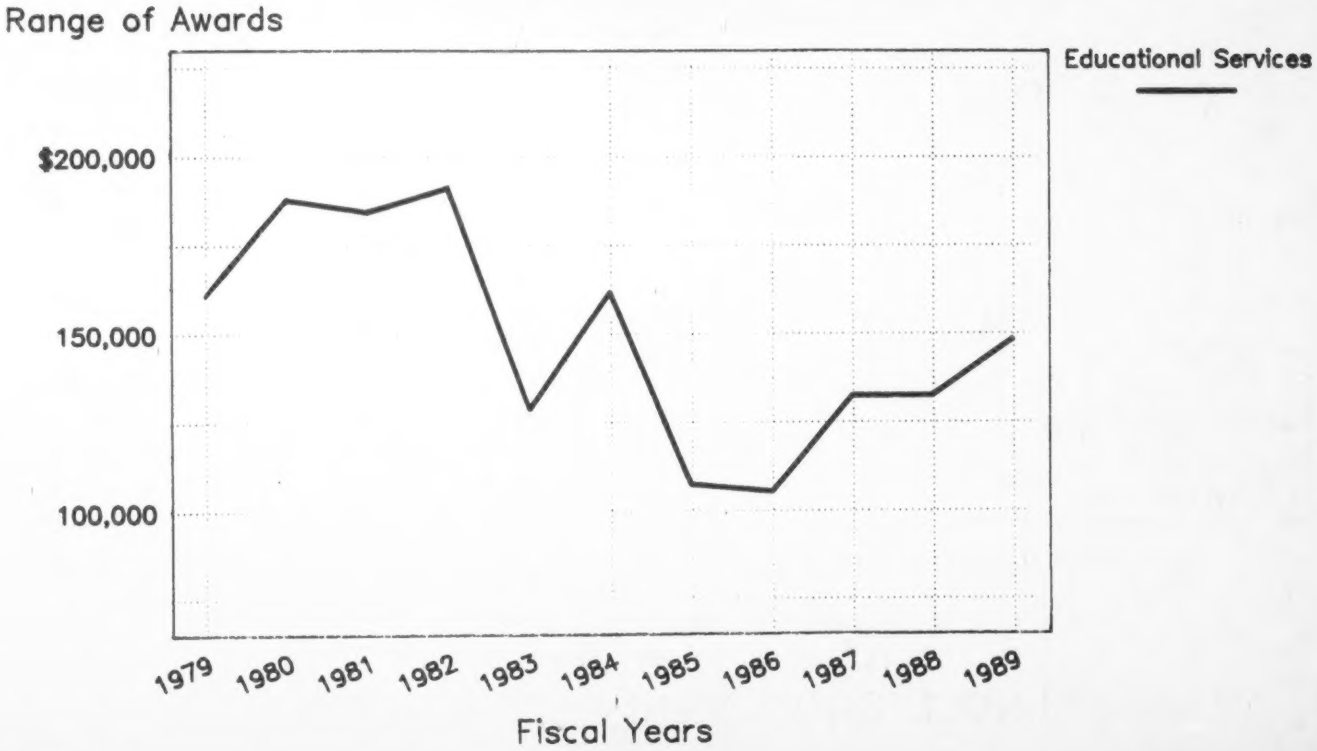
Fiscal Years 1979–1990



OFFICE OF INDIAN EDUCATION

Educational Services

Average Grant Awards FY 1979–1989



Indian Education Act Subpart 2 Program

Program Title: Special Programs for Indian Students - Planning, Pilot and Demonstration Projects

FY 1989 Appropriation:	**$1,900,000**
FY 1990 Budget Request:	**$1,900,000**
FY 1990 Appropriation:	**$1,935,000**

Program Purpose: To support planning, pilot and demonstration projects to develop, test and demonstrate programs which effectively improve educational opportunities for Indian children.

Funding Procedure: Funds are provided through competitive discretionary grants to Indian tribes, Indian organizations, BIA funded schools, SEAs and LEAs.

Funding Requirement: Twenty-five (25) priority points are given to applicants that are Indian tribes, organizations, or institutions.

Types of Activities Funded: Funds support activities to improve education from preschool to high school and include curriculum development in mathematics, science and the basic skills, special programs for gifted and talented students, and demonstrations of computer-based instructional programs.

FY 1989

No. of Applications	54
No. of Awards	16
No. of Participating Students	7,900
No. of States with Grant Awards	7

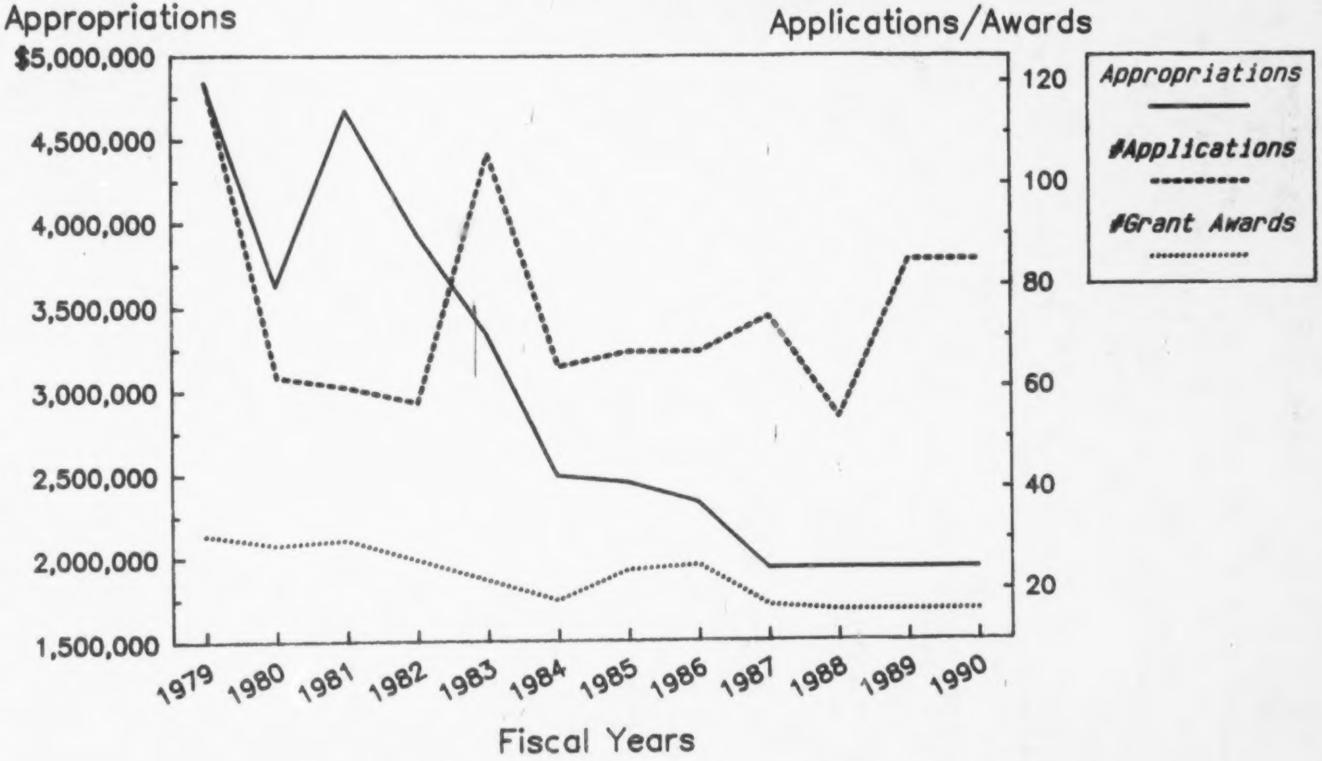
Award Notification Dates: 3/2/89--3/30/89 Continuation Grants
6/6/89--6/30/89 New Grants

Program Evaluation: None

Five-Year Funding History

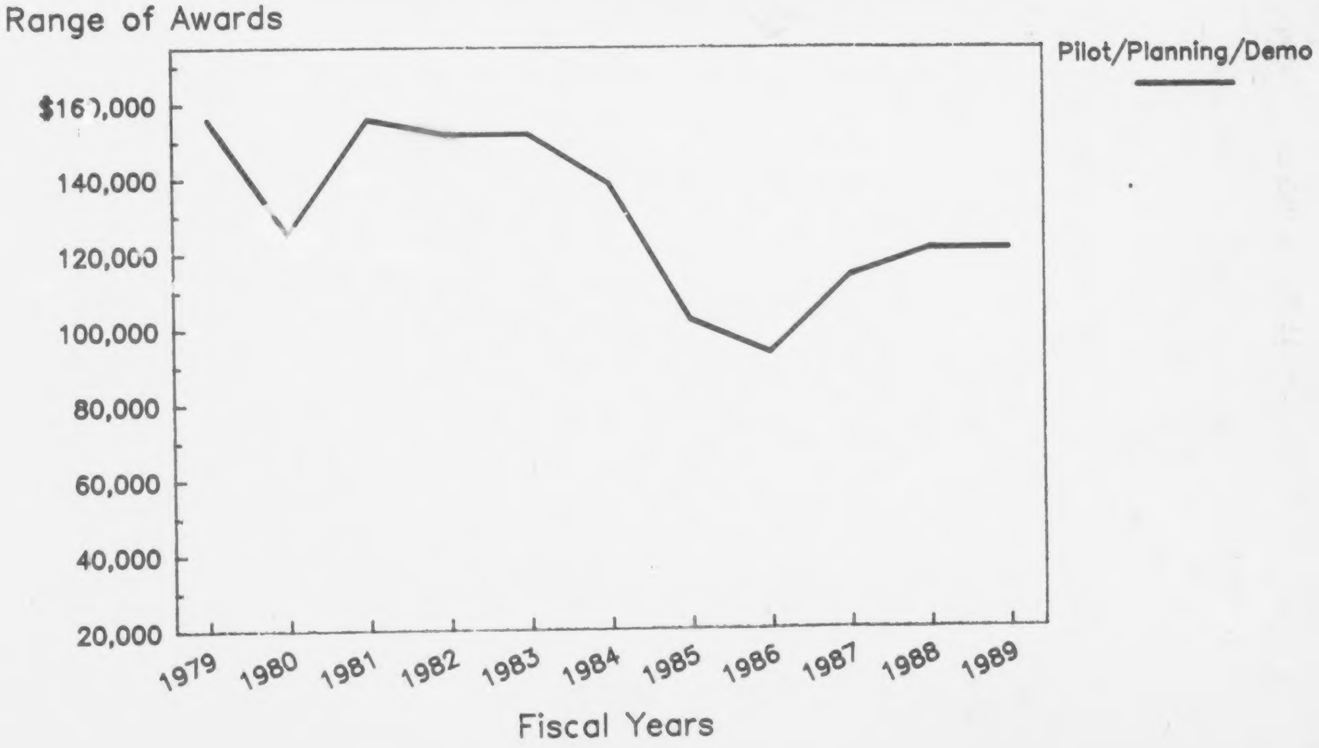
FY 1990	$1,935,000
FY 1989	$1,935,000
FY 1988	$1,935,000
FY 1987	$1,935,000
FY 1986	$2,330,000

OFFICE OF INDIAN EDUCATION
PPD Programs
Fiscal Years 1979-1990



OFFICE OF INDIAN EDUCATION

Pilot/Planning and Demonstration Program
Average Grant Awards FY 1979–1989



Indian Education Act Subpart 2 Program

Program Title: Educational Personnel Development Programs

FY 1989 Appropriation:	**$2,262,000**
FY 1990 Budget Request:	**$2,262,000**
FY 1990 Appropriation:	**$2,262,000**

Program Purpose: To prepare persons to serve, or to improve the qualifications of persons who serve Indian students as teachers, administrators, teacher aides, social workers and ancillary educational personnel.

Funding Procedure: Funds are provided through competitive discretionary grants to institutions of higher education, and SEAs and LEAs in combination with institutions of higher education under Section 5321(d) of the Indian Education Act of 1988, and to institutions of higher education, Indian organizations and Indian tribes, with priority given to Indian groups under Section 5322 of the Act.

Funding Requirement: Priority points are given to Indian tribes, organizations, and institutions and for programs leading to a bachelors degree or postbaccalaureate credits. Priority points are also given to applicants for projects in which all of the participants are Indian under Section 5321(d).

Types of Activities Funded: Funds under Section 5321(d) are provided to universities for assistance to Indian students in graduate programs in education, and under Section 5322, to Indian students in Indian tribes which anually subcontract with a local university or college for undergraduate programs to train Indians for careers as teachers or teacher aides.

FY 1989

No. of Applications	21
No. of Awards	16
No. of Participating Students	320
No. of States with Grant Awards	8

Award Notification Dates: 5/30/89--6/30/89

Program Evaluation: None

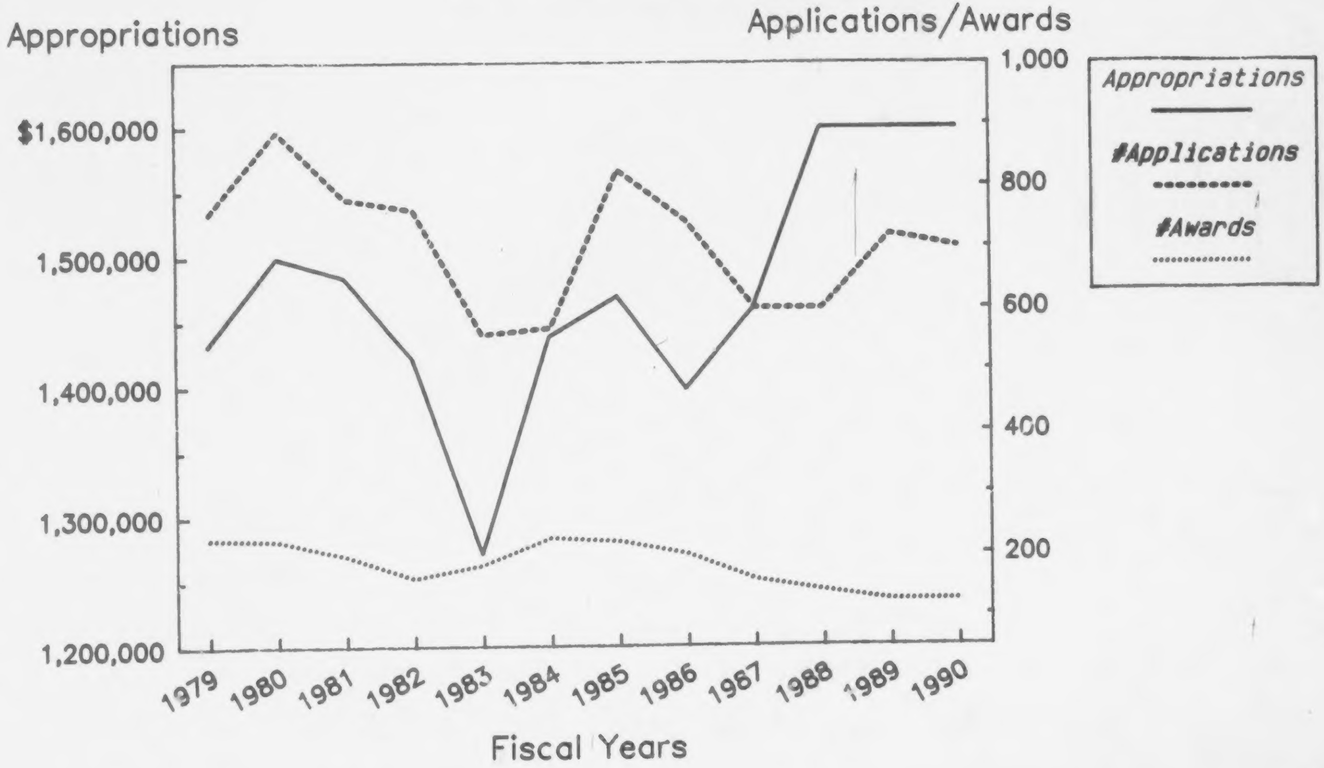
Five-Year Funding History

FY 1990	$2,262,000
FY 1989	$2,262,000
FY 1988	$2,262,000
FY 1987	$2,262,000
FY 1986	$2,165,000

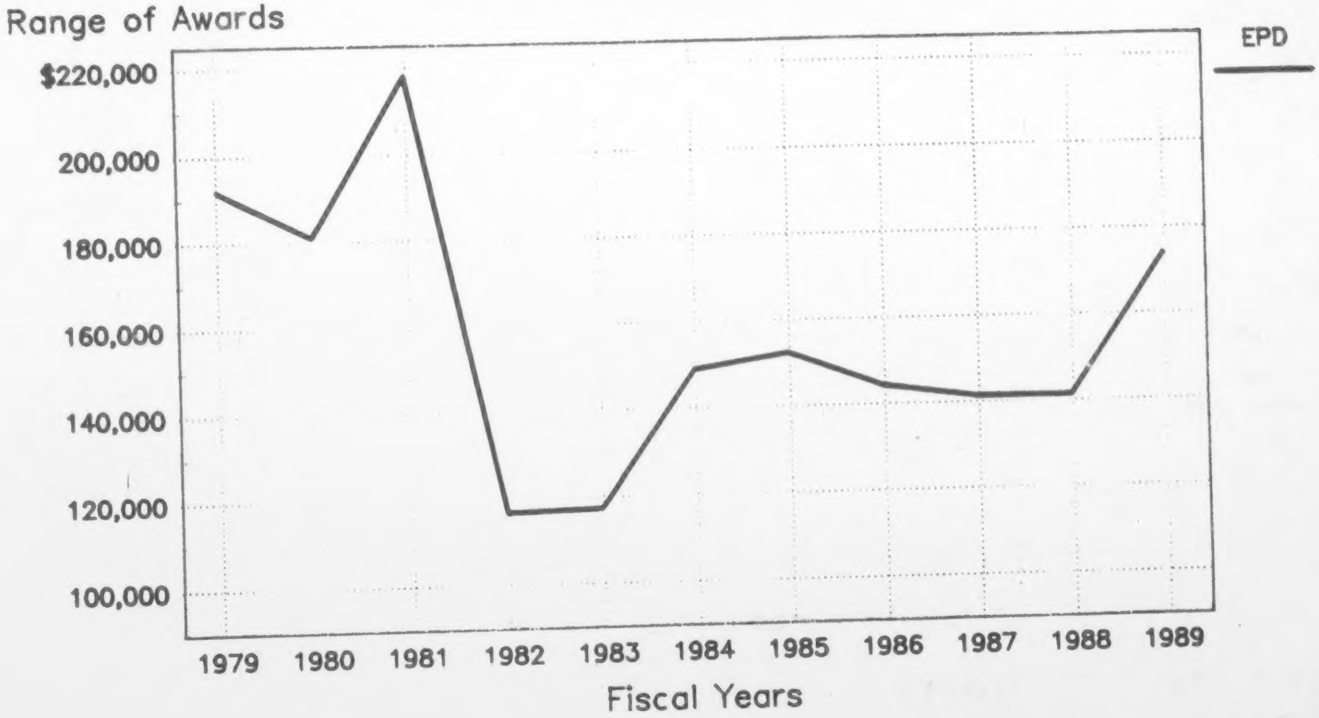
Office of Indian Education

Fellowships Program

Fiscal Years 1979–1990



OFFICE OF INDIAN EDUCATION
Educational Personnel Development
Average Grant Awards FY 1979–1989



Indian Education Act Subpart 2 Program

Program Title: Fellowships for Indian Students

FY 1989 Appropriation:	**$1,600,000**
FY 1990 Budget Request:	**$1,600;000**
FY 1990 Appropriation:	**$1,600,000**

Program Purpose: To enable Indian students to pursue courses of study leading to graduate or professional degrees in medicine, clinical psychology, psychology, law, education, and related fields and to graduate or undergraduate degrees in engineering, business administration, natural resources, and related fields.

Funding Procedure: Fellowships are awarded on a competitive basis to individuals.

Funding Requirement and Limitation: Awards may be used for stipulated education costs as long as other financial aid (other than loans) has not been awarded to the student for those costs.

Types of Fellowships Awarded: Full time graduate and undergraduate study in a degree program at an accredited institution of higher education.

FY 1989

No. of Applications:	676
No. of Awards:	124

Award Notification Dates: All Fellows notified 45 days or more before the opening of school.
Schools notified July 19, 1989 - effective date of Fellowship regulations.

Program Evaluation: A follow-up study of past fellows is planned for this spring.

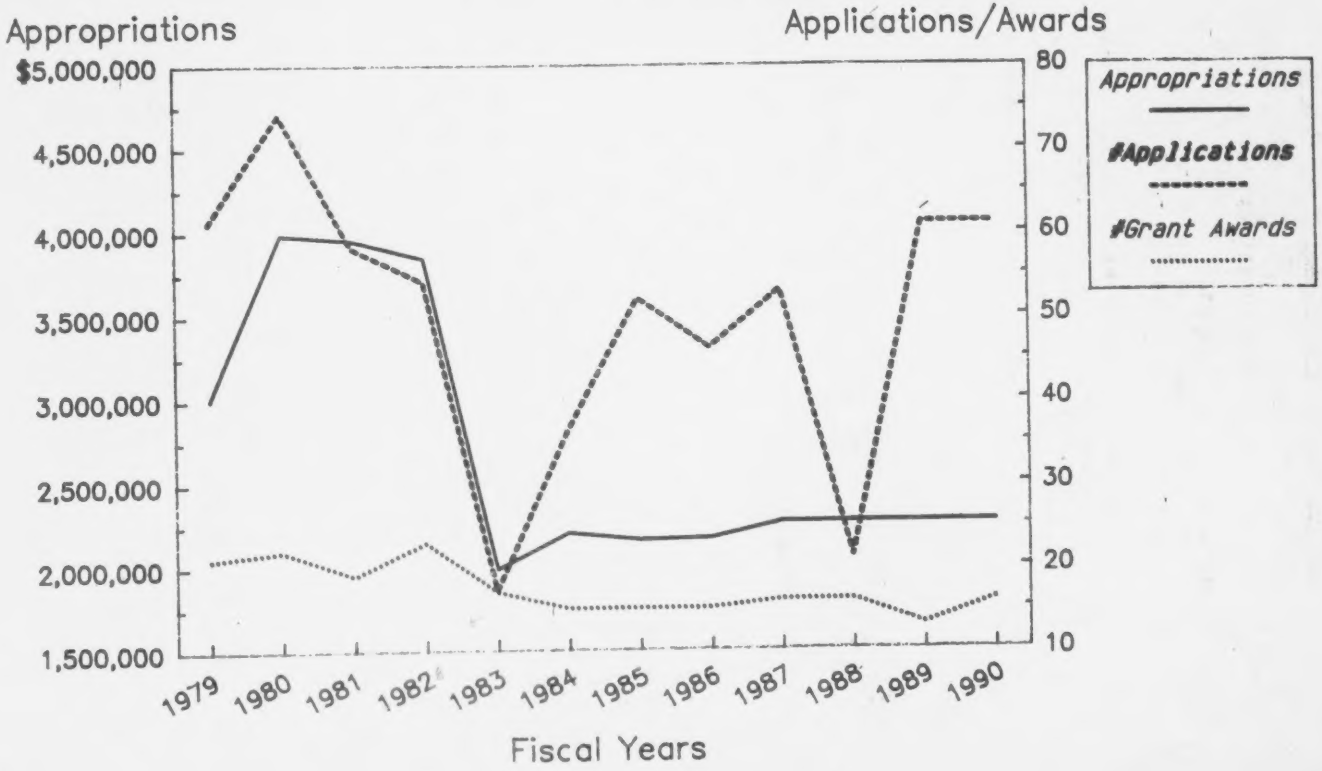
Five Year Funding History

FY 1990	$1,600,000
FY 1989	$1,600,000
FY 1988	$1,600,000
FY 1987	$1,461,000
FY 1986	$1,398,000

OFFICE OF INDIAN EDUCATION

EPD Program

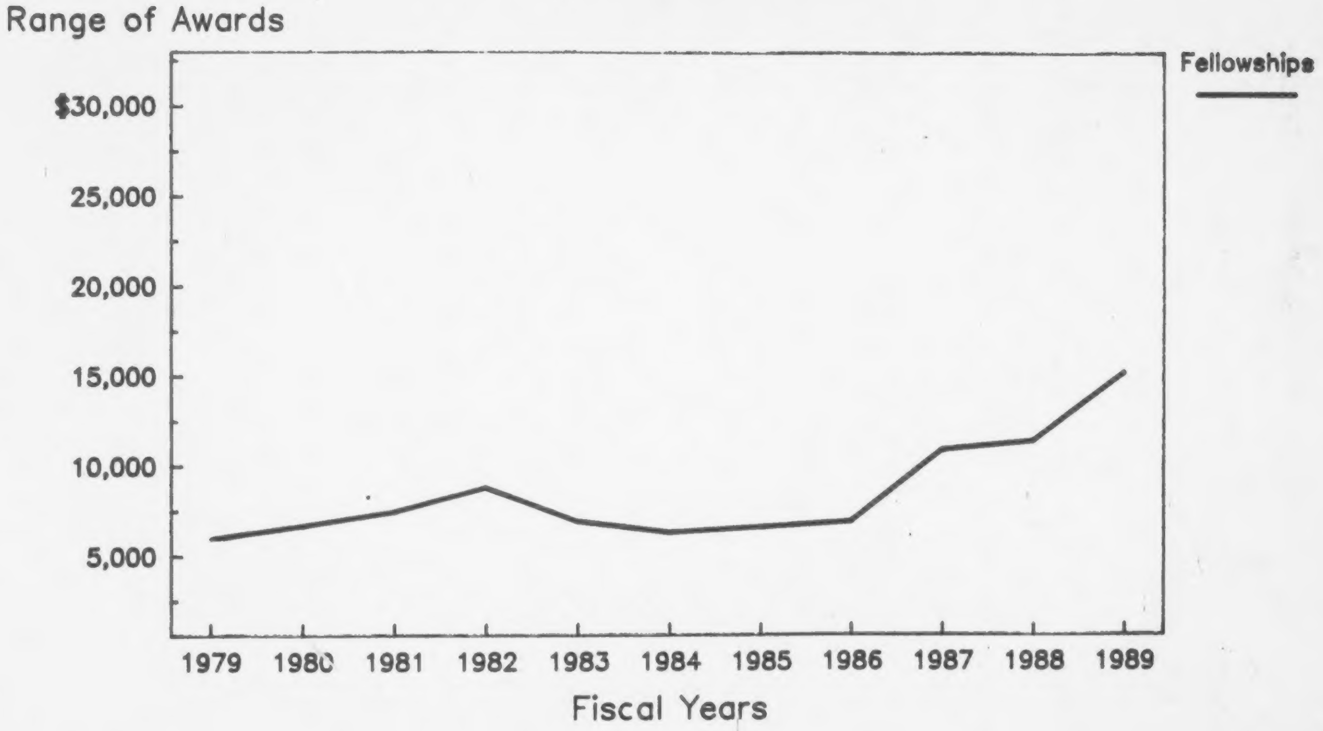
Fiscal Years 1979–1990



OFFICE OF INDIAN EDUCATION

Average Fellowship Grant Awards

1979–1989



Indian Education Act Subpart 3 Program

Program Title: Adult Education Services

FY 1989 Appropriation: $4,000,000
FY 1990 Budget Request: $4,136,000
FY 1990 Appropriation: $4,136,000

Program Purpose: To enable Indian adults to acquire basic literacy, complete secondary school, and obtain skills necessary for them to benefit from vocational training.

Funding Procedure: Funds are provided through competitive discretionary grants to Indian Tribes, Indian organizations, and Indian institutions.

Funding Requirement and Limitation: Funds may not be used to prepare individuals to enter a specific occupation or cluster of closely related occupations.

Types of Activities Funded: Project activities include adult basic education, preparation for the General Education Diploma, consumer education, academic and career counseling, development of skills in aptitude and vocational testing, and job referrals.

FY 1989

No. of Applications	73
No. of Awards	30
No. of Participating Students	7,500
No. of States with Grant Awards	14

Award Notification Dates: 3/1/89 Continuation
4/29/89 - 9/29/89 New

Program Evaluation: The last evaluation study on the Indian adult education program was conducted in 1984 in which project activities were found to be consistent with the intent of the program statute and regulations, and that services based on needs were provided. The study also suggested an overlap of activities between the services projects and planning, pilot and demonstration projects; and that some planning, pilot and demonstration projects were not cost effective. Based on these findings, the Department discontinued funding for planning, pilot and demonstration projects in adult education.

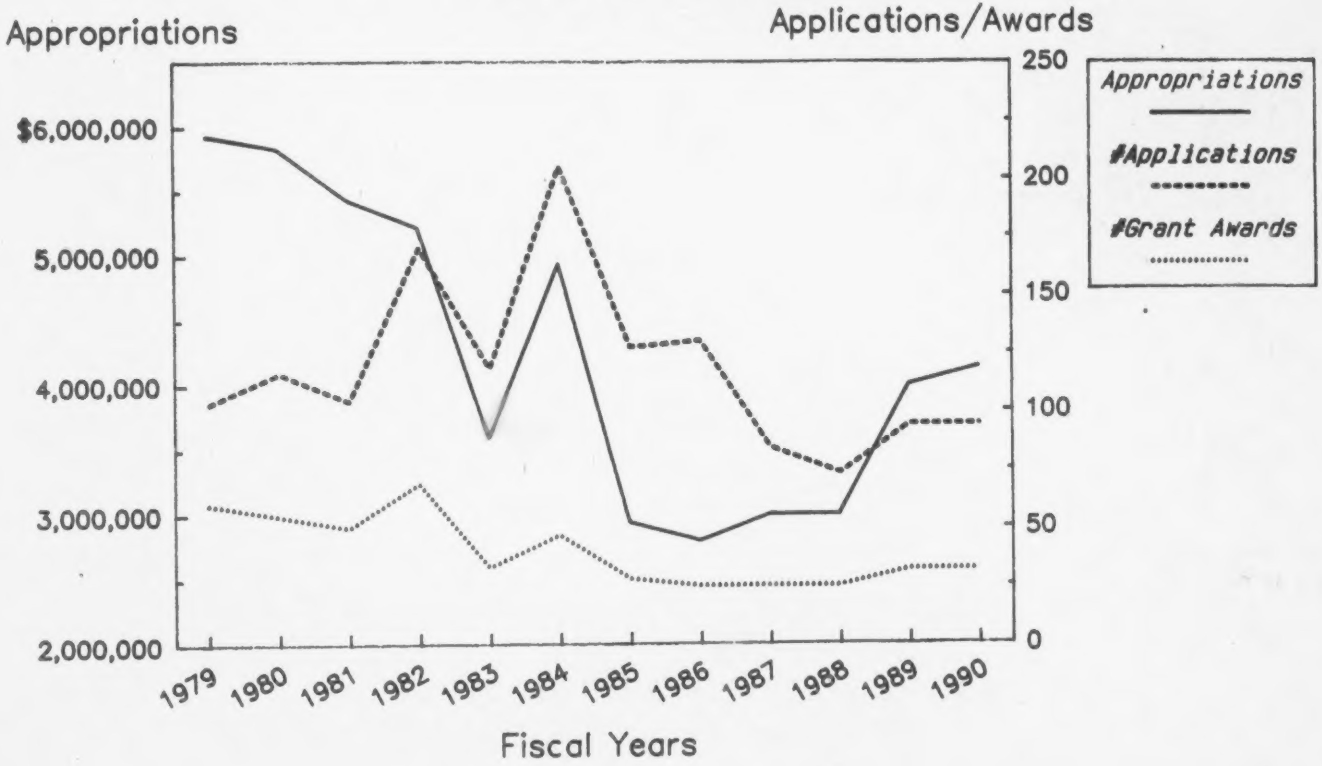
Five-Year Funding History

FY 1990	$4,136,000
FY 1989	$4,000,000
FY 1988	$3,000,000
FY 1987	$3,000,000
FY 1986	$2,797,000

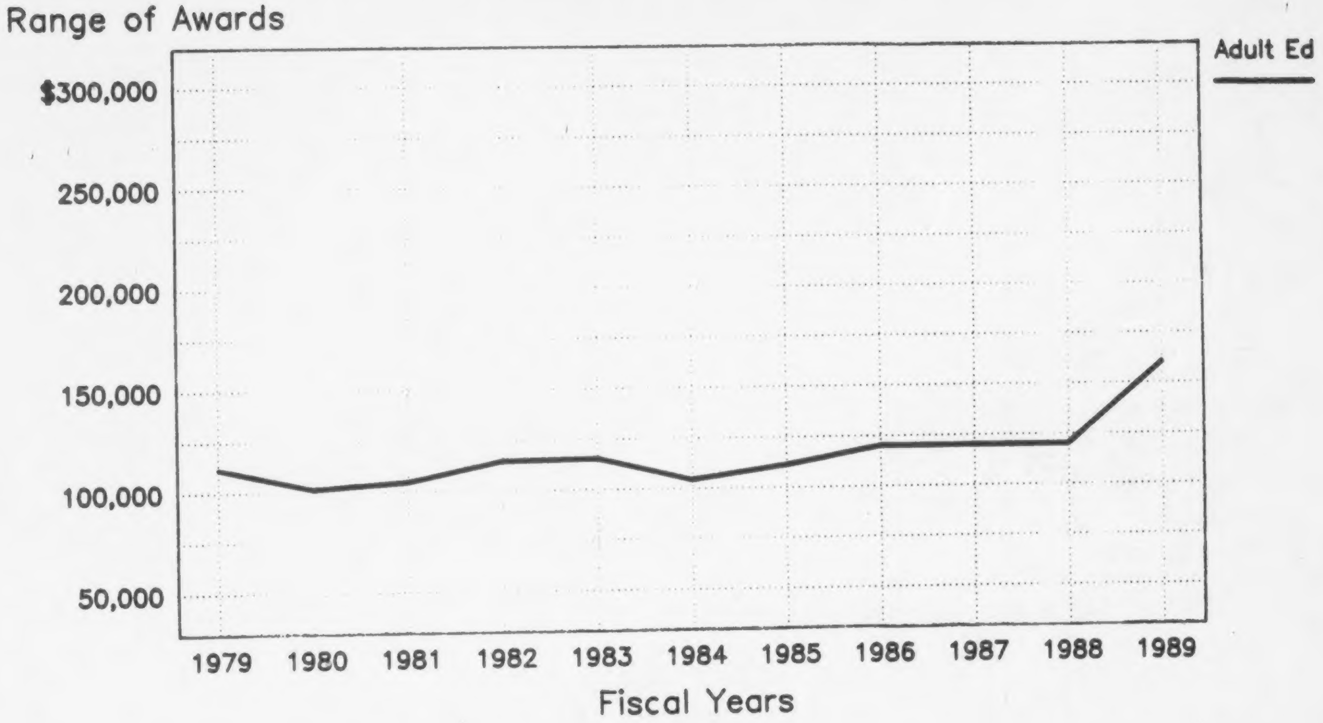
OFFICE OF INDIAN EDUCATION

Adult Education Program

Fiscal Years 1979–1990



OFFICE OF INDIAN EDUCATION
Adult Education Programs
Average Grant Awards FY 1979–1989



Indian Education Act Subpart 2 Program

Program Title: Resource and Evaluation Centers

FY 1989 Appropriation: $2,300,000
FY 1990 Budget Request: $2,300,000
FY 1990 Appropriation: $2,300,000

Program Purpose: To provide technical assistance and training to LEAs, SEAs, Indian Tribes and organizations in program design, program development, management and evaluation upon request by such entities and to disseminate information to grantees and potential grantees.

Funding Procedure: Competition for five contract awards is held every three years. Any Indian tribe, organization or educational institution serving American Indian and Alaska Native children can apply. Fifteen (15) priority points are given to applicants who are an Indian tribe, organization, or Indian operated institition. Awards are made for one-year with two succeeding option years. Contractors are currently completing their first option year and will be going into the second year continuing option in February, 1990.

FY 1989

No. of Awards..................................5
Range of Awards............$391,235 - $489,039
Location of the Regional Center: Center I - Washington, DC
Center II - Bismarck, ND
Center III - Spokane, WA
Center IV - Phoenix, AZ
Center V - Norman, OK

Award Period: 2/1/88 - 1/31/91

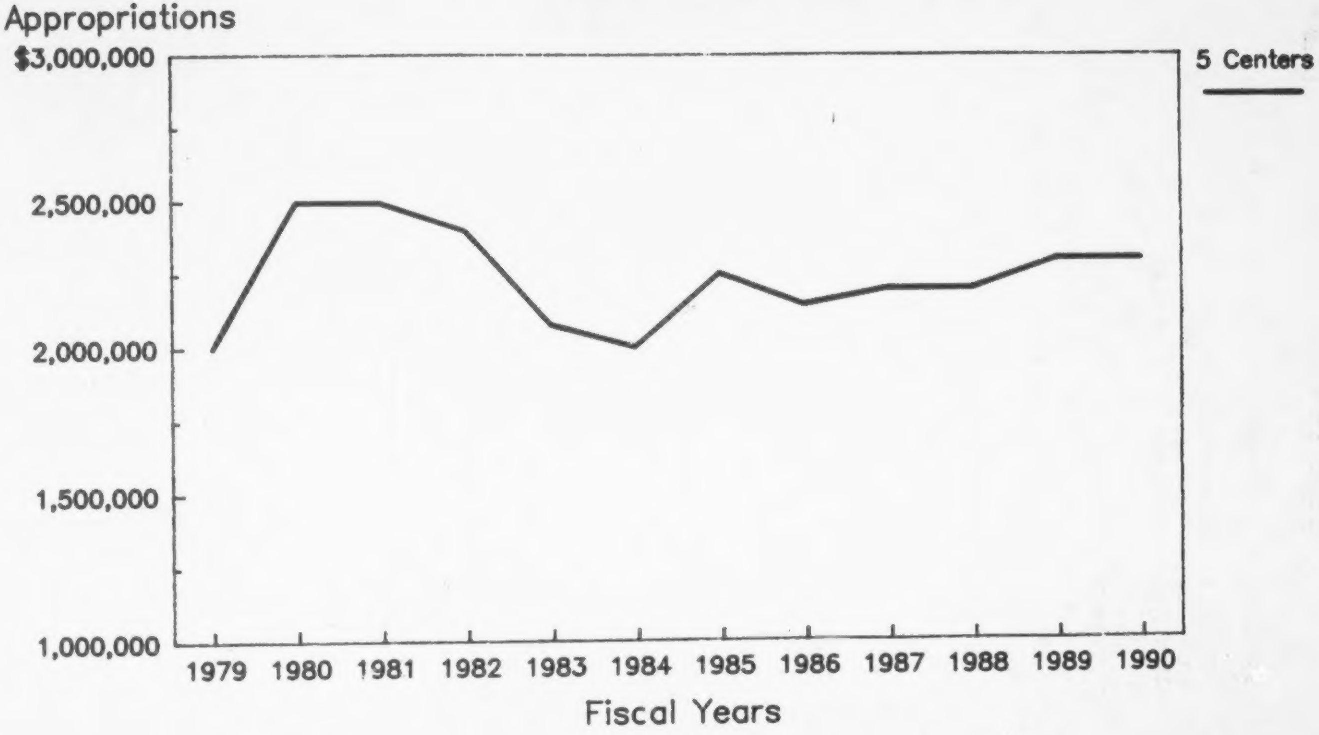
Five-Year Appropriation History

FY 1990	$2,300,000
FY 1989	$2,300,000
FY 1988	$2,200,000
FY 1987	$2,200,000
FY 1986	$2,100,000

OFFICE OF INDIAN EDUCATION

Resource and Evaluation Centers

FY 1979–1990



PROGRAM OVERVIEW

Program Title: Impact Aid, P.L. 81-874

FY 1989 Appropriation:	$708,396,000
FY 1990 Budget Request:	$603,670,000
FY 1990 Appropriation:	$717,354,000

Program Purpose: To compensate school districts for the cost of educating children when enrollments and the availability of revenues from local sources have been adversely affected by Federal activities.

Types of Assistance and Eligible Applicants: Formula grants to local educational agencies.

Types of Activities Supported: Impact Aid funds are general funds which can be used for current expenditures except that increased payments received for handicapped children must be used for programs and projects designed to meet the special education needs of handicapped children.

FY 1988 1/:

No. of Indian Districts 2/ Funded:...674
No of Children Served:...........106,119
Amount for Children Residing on Indian Lands:..........$235,724,985

Five-Year Funding History:

Fiscal Year	Total Appropriation (in millions)	Amount for Children Residing on Indian Lands (in millions)
1989	$708.4	Data not complete
1988	685.4	$235.7
1987	695.0	225.4
1986	666.0	221.7
1985	695.0	224.0

1/ Data for FY 1989 are not complete.

2/ Indian districts are those comprised mainly of Indian lands or serving children residing on Indian lands.

PROGRAM OVERVIEW

Program Title: Impact Aid Construction Program, P.L. 81-815

FY 1989 Appropriation: $24,700,000
FY 1990 Budget Request: $25,590,000
FY 1990 Appropriation: $14,998,000

Program Purpose: Provides assistance to school districts for the construction and repair of urgently needed minimum school facilities in areas affected by Federal activities, including districts that are comprised mainly of Indian lands or that educate children who reside on Indian lands.

Types of Assistance and Eligible Applicants: Grants to eligible local educational agencies.

Types of Activities Supported: Activities related to the repair or construction of school facilities.

FY 1989:

Total No. of Awards: 24
Total Amount: $18,014,675

Total No. of Awards to Indian Districts 1/: 3
Total Amount: $7,081,000

Five-Year Funding History:

Fiscal Year	Total Appropriation (in millions)	Amount to Indian Districts 1/ (in millions)
1989	$24.7	$ 7.1
1988	23.0	24.0 2/
1987	22.5	—
1986	16.7	7.2
1985	20.0	8.5

1/ Indian districts are districts comprised mainly of Indian lands or serving children residing on Indian lands.

2/ Includes carryover funds from the prior fiscal year.

PROGRAM OVERVIEW

Program title: Chapter 1 Basic Grants to Local Educational Agencies

FY 1989 Appropriation:	$3,853,200,000	BIA set-aside:	$25,217,026
FY 1990 Budget Request:	3,900,000,000	BIA set-aside:	24,635,643
FY 1990 Conference:	4,427,250,000	BIA set-aside:	28,974,378

Program purpose: To make financial assistance available to local school districts for providing compensatory education services to educationally disadvantaged students.

Type of assistance and eligible applicants: Funds are allocated to local school districts through a statutory formula based on the number of children in low-income families and each State's per-pupil expenditure. Students served are educationally disadvantaged children (defined as those who achieve below a grade level appropriate for his or her age) who are selected by the local school district based on their need for services.

Special funding requirements: One percent of the funds appropriated for Basic Grants to LEAs is set aside for the BIA and the Outlying Areas. Roughly 66 percent of this set-aside is transferred through an interagency agreement to the BIA to meet the needs of educationally disadvantaged Indian children attending BIA-operated schools or BIA-contract schools.

Types of activities supported: Local school districts use Chapter 1 funds primarily for providing instruction in basic skills. Nationally 76 percent of all Chapter 1 students served receive reading instruction; 47 percent receive math instruction.

FY 1989:

Number of Indian students served (estimated):

BIA schools........................	15,088
In non-BIA schools.................	55,806
Total..........................	70,894

Program evaluations: Evaluation data from the National Assessment of Chapter 1 (1987) indicate that the program has had success in improving the basic academic skills of participating students. Chapter 1 students gain more than similar students who do not receive compensatory services. No evaluations have been done to assess the specific impact of Chapter 1 on Indians.

Five-year funding history:

	Chapter 1 Grants to LEAs	BIA Set-aside
1989........................	$3,853,200,000	$25,217,026 1/
1988........................	3,829,600,000	27,247,217
1987........................	3,453,500,000	24,835,195
1986........................	3,062,400,000	22,225,768
1985........................	3,200,000,000	23,224,101

1/ Reflects passage of P.L. 100-297 which changed the basis of how the BIA and Outlying Areas set-aside is calculated.

PROGRAM OVERVIEW

Program title: Library Services for Indian Tribes

FY 1989 Appropriation:	$1,836,525
FY 1990 Budget Request:	-0-
FY 1990 Conference:	1,703,250

Program purpose: To assist in developing or improving public library services for Indian people.

Type of assistance and eligible applicants: Discretionary grants are made to Federally-recognized tribes and Alaskan native villages. Basic grants of equal size are available to each tribe; those funds not awarded are made available for special projects grants awarded through a competition of basic grant recipients.

Special funding requirements: Funding of title IV of the Library Services and Construction Act is provided through a mandated set-aside of 1.5 percent of the sums appropriated for titles I, II, and III of LSCA.

Types of activities supported: Training of Indians as library personnel; purchase of library materials; special library programs; salaries of library personnel; construction or renovation of facilities; transportation; dissemination; assessment of needs; and contracting authority to provide any of the above.

FY 1989 Impact Data:

Number of eligible tribes........................	506
Number of basic grants...........................	159
Average award..................................	$3,629
Number of special projects grants................	17
Average award..................................	$72,849

Program evaluations: No studies have been conducted to date.

Five-year funding history:

1989	$1,836,525
1988	1,803,750
1987	1,807,500
1986	1,658,250
1985	1,770,000 (first year of program)

PROGRAM OVERVIEW

Program Title: Indian Vocational Education Program

FY 1989 Appropriation: $10,808,990
FY 1990 Budget Request: — 1/
FY 1990 Appropriation: $11,073,333

Program Purpose: To assist Indian tribes and tribal organizations to provide vocational education programs. The services provided under this program are in addition to services Indians are eligible to receive under other provisions of the Perkins Act.

Type of Assistance and Eligible Applicants: Discretionary grants to Indian tribes and tribal organizations.

Special Funding Requirements: Under the vocational education Basic Grants program, 1.5 percent of the combined appropriations for Titles I (other than Section 112), II, and IV (other than Part E) is set aside for Indian and Hawaiian Natives programs. Of this amount, 0.25 percent is used to serve Hawaiian natives and 1.25 percent is used for the Indian program.

Types of Activities Supported: Vocational projects funded under this program must be linked to tribal economic development plans. Types of training provided include bookkeeping, commercial fishing, administrative and secretarial skills, tribal management, and corrections administration.

FY 1989

No. of Applications	73
No. of Awards	50
Participating Students	5,600 2/

Five-year funding history:

1989	$10,808,990
1988	10,462,777
1987	10,414,352
1986	9,564,364
1985	9,895,639

1/ For fiscal year 1990, a total of $949,387,000 was requested for Vocational Education. Amounts for the Indian Vocational Education program and other vocational education activities were not specified pending enactment of new authorizing legislation.

2/ Estimate based on previous years' reports.

PROGRAM OVERVIEW

Program Title: American Indian Vocational Rehabilitation Services Grants

FY 1989 Appropriation :	$3,625,000
FY 1990 Budget Request:	$3,777,000
FY 1990 Conference Action:	$3,875,000

Program Purpose: To provide vocational rehabilitation services to handicapped American Indians residing on Federal or State reservations in order to prepare them for suitable employment.

Types of Assistance and Eligible Applicants: Discretionary grants to governing bodies of Indian tribes and consortia of those governing bodies located on Federal and State reservations.

Special Funding Requirements: Applicants ~~must~~ must provide a broad scope of vocational rehabilitation services in a manner and at a level of quality at least comparable to those services provided under the Vocational Rehabilitation State Grant Program.

Types of Activities Supported: Projects provide financial assistance for the establishment and operation of tribal vocational rehabilitation service programs. Vocational rehabilitation programs provide comprehensive rehabilitation services, diagnostic services, vocational assessment, plan development, restoration, vocational training, placement and post-employment support. Individual projects also conduct outreach activities to acquaint potential clients with the range of services available.

FY 1989

Number of Applicants	24
Number of Awards	14
Number of Individuals Served (Estimated)	3,500
Number of Participating States	9

Program Evaluations: The Rehabilitation Act of 1973, as ammended by PL 99-506, mandated a "Study of the Special Problems and Needs of American Indians with Handicaps Both On and Off the Reservation." The 1987 study reported the following barriers to State Vocational Rehabilitation service delivery to American Indians: a lack of employment opportunities on or near the reservation, cultural differences affecting traditional service delivery patterns, geographic isolation, lack of interagency cooperation, itinerant service delivery strategy, and a high level of substance abuse. The Study recommendations will be utilized to assist State and Federal Vocational Rehabilitation Agencies to work together with Indian tribes and other local agencies to provide improved rehabilitation services.

Five - Year Funding History*

FY 1989:	$3,625,000
FY 1988:	$3,449,000
FY 1987:	$3,203,000
FY 1986:	$1,340,000
FY 1985:	$1,430,000

* The Rehabilitation Act Ammendments of 1986 require that 0.25 of 1 percent up to 1 percent of the appropriation for Vocational Rehabilitation State Grants be set aside for Grants to Indians.

PROGRAM OVERVIEW

Program Title: Dwight D. Eisenhower Mathematics and Science Education State Grants — BIA Set-Aside

FY 1989 Appropriation:	$128,440,000	BIA set-aside:	$686,660
FY 1990 Budget Request:	$132,807,000	BIA set-aside:	$710,005
FY 1990 Conference:	$128,440,000	BIA set-aside:	$686,660

Program Purpose: To provide financial assistance to State educational agencies (SEAs), local educational agencies (LEAs), and institutions of higher educations (IHEs) to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science.

Types of Assistance and Eligible Applicants: Discretionary grants to BIA-operated elementary and secondary schools serving Indian students.

Special Funding Requirements: Of the total amount appropriated, one-half percent is allocated to programs for Indian children in elementary and secondary schools operated by the Department of the Interior.

Types of Activities Supported: Funds may be used for expansion and improvement of preservice and inservice training and retraining of teachers in the fields of mathematics and science; recruitment or retraining of minority teachers to become mathematics and science teachers; training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program; integrating higher-order analytical and problem-solving skills into the mathematics and science curriculum; or projects for individual teachers to improve their teaching ability or improve instructional materials.

Program Evaluations: None planned.

Five Year Funding History:

	State Grants	BIA Set-Aside
1989	$128,440,000	$686,660
1988	108,904,000	598,375
1987	72,800,000	400,000
1986	39,182,000	215,286
1985	100,000,000	500,000

PROGRAM OVERVIEW

Program Title: Drug-Free Schools and Communities Programs for Indian Youth

FY 1989 Appropriation:	$3,475,000
FY 1990 Budget Request:	$3,593,150
FY 1990 Conference:	$3,583,150

Program Purpose: To provide support for alcohol and drug abuse education and prevention programs for Indian children attending schools operated by or under contract with the Department of the Interior.

Special Funding Requirements: Since 1987, the Department of Education has continued an agreement with the Department of the Interior under which the Bureau of Indian Affairs (BIA) operates this program. Under the agreement, at least 90 percent of the funds transferred are used for awards of at least $5,000 to BIA schools serving Indian children. Up to 10 percent of the funds may be retained by the BIA for training programs; the design and implementation of curricular materials; demonstration projects; special assistance to economically disadvantaged areas; technical assistance; and (subject to a 2.5 percent cap) administration of the program.

Types of Assistance and Eligible Applicants: Formula grants to BIA-operated elementary and secondary schools serving Indian students.

Types of Activities Supported: In fiscal year 1988, funds supported curriculum implementation, inservice and preservice workshops, training of students and school teams, and drug education conferences.

FY 1988:

No. of Schools....................................	182

Program Evaluations: None planned.

Five Year Funding History:

1989	$3,475,000
1988	2,226,512
1987	1,945,000
1986	None
1985	None

PROGRAM OVERVIEW

Program title: Minority Science Improvement Program

FY 1989 Appropriation:	$5,307,000
FY 1990 Budget Request:	$5,487,000
FY 1990 Conference Action:	$5,487,000

Program purpose: To enhance the capacity of minority institutions to develop and maintain quality science education programs and to increase the flow of underrepresented minorities into the fields of science, mathematics and engineering, one-year grants are awarded to postsecondary institutions with minority enrollments greater than 50 percent.

Types of assistance and eligible applicants: Private and public accredited 2-year and 4-year institutions of higher education are eligible if their enrollments are predominantly (50 percent or more) American Indian, Alaskan native, black (not of Hispanic origin), Hispanic, Pacific Islander, or any combination of these or other disadvantaged ethnic minorities who are underrepresented in science and engineering. Proposals may also be submitted by nonprofit, science-oriented organisations, professional scientific societies; and all nonprofit, accredited colleges and universities that will provide a needed service to a group of institutions eligible for the Minority Science Improvement Program (MSIP) or provide inservice training for project directors, scientists, or engineers from eligible minority institutions.

Special funding requirements: None

Types of activities supported:

- Institutional Project grants provide assistance to individual minority institutions to support implementation of comprehensive science improvement plans, which may include any combination of activities designed to improve the preparation of minority students for careers in science.
- Cooperative Project grants assist groups of nonprofit, accredited colleges and universities to work together to conduct science improvement projects.
- Design Project grants provide assistance to minority institutions to plan and develop long-range science improvement programs.
- Special Project grants support activities that: improve the quality of training in science, mathematics, and engineering; enhance minority institutions' general scientific research capabilities; provide needed services to groups of eligible minority institutions; or provide in-service training for project directors and faculty from eligible minority institutions.

Program evaluation: A study conducted in 1982 visited 10 participating institutions. Study staff found that the MSIP effort has been of considerable value in improving the quality of the science departments in most of the institutions. In particular, the program increased the number and quality of faculty, increased the percentage of students majoring in science, and enhanced the research capabilities of those science departments. However, the science education outcomes were not uniform. Instruction was improved when it included acquisition of permanent laboratory equipment. Faculty retention was most likely to be enhanced by improving the institutions' programs as a whole rather than by faculty development, which was more likely to help the faculty find other positions.

Five-year funding history:

FY 1989	$5,307,000
FY 1988	$5,266,000
FY 1987	$5,000,000
FY 1986	$4,785,000
FY 1985	$5,000,000

FY 1989:

Number of Applicants	130
Number of Awards	37
Number of Individuals Served	N/A
Number of Participating States	N/A

PROGRAM OVERVIEW

Program title: Aid for Institutional Development (Title III)

FY 1989 Appropriation:	$174,577,000
FY 1990 Budget Request:	$202,366,000
FY 1990 Conference Action:	$198,747,000

Program purpose: To help eligible institutions equalize educational opportunity by providing financial assistance to enable them to solve problems that threaten their ability to survive, to stabilize their management and fiscal operations, and to build endowments. An important objective of this program is for participants to improve their management and programs and become financially independent.

Types of assistance and eligible applicants: The Institutional Aid Programs consist of five components:

1. The Strengthening Institutions Program (Part A) provides 3-year renewable grants or 4- and 5-year grants to eligible institutions, which may be renewed only after a 4- or 5-year wait.

2. The Strengthening Historically Black Colleges and Universities Program (Part B) provides grants to eligible historically black colleges and universities (HBCU). To be eligible, an institution must have been established prior to 1964 and its principle mission must be the education of black Americans. The appropriation is allotted among HBCUs according to the number of Pell Grant recipients among currently enrolled students (50 percent), graduates (25 percent), and graduates attending graduate or professional school in degree programs in which blacks are underrepresented (25 percent).

3. The Strengthening Historically Black Graduate Institutions Program (Part B, Section 326) provides no more than two 2-year grants to the following five postgraduate institutions: Morehouse School of Medicine, Meharry Medical School, Charles R. Drew Postgraduate Medical School, Atlanta University, and Tuskegee Institute of Veterinary Medicine. Except for Morehouse School of Medicine, which is authorized to receive $3 million, each institution is limited to $500,000 unless the institution agrees to match the grant.

4. The Challenge Grant Program (Part C, Section 331) is not currently funded. Multiyear awards made before FY 1983 eneded in FY 1987.

5. The Endowment Challenge Grant Program (Part C, Section 332) provides eligible institutions with Federal grants that match endowment funds raised by the institutions.

Special funding requirements: Part A - When the appropriation equals or exceeds the FY 1986 level ($60 million), a minimum of $51.4 million must be available for 2-year institutions, and 25 percent of the funds above the FY 1986 level must be allocated to eligible institutions with the highest percentage of minority students. To qualify for this set-aside as a minority institution, a school must have an enrollment that is 20 percent Mexican-American, Puerto Rican, Cuban, or other Hispanic; or 60 percent American Indian; or 5 percent Alaskan native; or 5 percent native Hawaiian, American Samoan, Micronesian, Guamian, or Northern Marianian.

Part C -

- Authorizes grants for eligible institutions to establish or increase institutional endowment funds.
- Individual grants may not exceed $500,000 or be less than $50,000, and must be matched dollar-for-dollar by the institution. However, if the Part C appropriation exceeds $10 million, the Federal-institutional match for Endowment Challenge Grants of $1 million or more is $2 Federal to $1 institutional; such recipients are prohibited from reapplying for a period of 10 years.
- Two-year, 4-year, or graduate institutions generally must meet the Part A or Part B eligibility criteria.
- Generally an institution may receive up to two endowment grants in any five-year period.
- During the 20-year grant period, an institution may not spend the endowment corpus but may spend one-half of the interest earned on the endowment for an institutional expenses.

Types of activities supported: Funds may be used to plan, develop, and implement activities for: faculty and academic program development, funds and administrative management, joint use of libraries and labratories, acquisition of equipment to be used in strengthening fiscal management and academic programs, and student services.

FY 1989

Number of Applicants............	1214
Number of Awards.................	613
Number of Individual Served......	N/A
Number of States Participants....	N/A

Program evaluations: Not available

Five-year funding history:

FY 1989	$174,577,000
FY 1988	$152,370,000
FY 1987	$147,208,000
FY 1986	$135,136,000
FY 1985	$141,208,000

0163f

PROGRAM OVERVIEW

Program Title: Education for the Handicapped Grants to States

FY 1989 Appropriation:	$1,475,449,000
FY 1990 Budget Request:	$1,525,614,000
FY 1990 Conference Level:	$1,564,017,000

Program Purpose: To help States, territories, and the Secretary of the Interior meet the costs of providing special education and related services to all handicapped children aged 3 through 21 years.

Type of Assistance and Eligible Applicants: The Secretary of the Interior receives 1.25 percent of the aggregate amounts available to all States for the education of handicapped children on reservations served by elementary and secondary schools operated for Indian children by the Department of the Interior.

Special Funding Requirements: The Secretary of the Interior must submit an approvable application that meets statutory requirements, includes satisfactory assurances that all 3 through 5 year olds are receiving a free appropriate public education, and includes an assurance that there are public hearings, notice of such hearings, and an opportunity for comment by members of tribes, tribal governing bodies, and designated local school boards on the policies, procedures, and programs that are in the Plan submitted to the Department of Education.

Types of Activities Supported: A wide variety of activities are supported by grant funds, including the provision of aides, teacher in-service training, the purchase of special supplies and equipment, the provision of related services, such as speech therapy and occupational therapy, and parent training.

FY 1989 Award: $18,215,420

Program Evaluations: The program was monitored in fiscal year 1988, with an on-site visit made November 11-December 4, 1987. The Plan must be approved before funds can be awarded.

Five-year Funding History:

1989:	$18,215,420
1988:	$17,675,765
1987:	$16,518,518
1986:	$11,239,059
1985:	$10,582,921

0163f

PROGRAM OVERVIEW

Program Title: Education for the Handicapped Grants for Infants and Families

FY 1989 Appropriation:	$69,831,000
FY 1990 Budget Request:	$72,205,000
FY 1990 Conference Level:	$80,624,000

Program Purpose: To help States, territories, and the Secretary of the Interior develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped children, aged birth through two years, and their families.

Type of Assistance and Eligible Applicants: The Secretary of the Interior receives 1.25 percent of the aggregate of the amount available to all States for handicapped infants and toddlers and their families on reservations served by the elementary and secondary schools operated for Indians by the Department of the Interior.

Special Funding Requirements: The Secretary of the Interior must submit an approvable application that meets statutory requirements.

Types of Activities Supported: Development of the 14 statutory requirements for the statewide system is the major activity supported. Funds may also be used to provide direct services that are not otherwise provided from other public or private sources and to expand or improve services that are otherwise available.

FY 1989 Award: $853,490.

Program Evaluations: None.

Five-year Funding History:*

1989:	$853,490
1988:	$819,109
1987:	$611,111

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* The program was first funded in fiscal year 1987.

PROGRAM OVERVIEW

Program Title: Bilingual Education (projects that serve Indian students)

FY 1988 Funds: $10,729,000*

Program Purpose: To assist LEAs in the establishment, expansion, or operation of instructional programs to serve limited English proficient students.

Type of Assistance and Eligible Applicants: Discretionary grants, primarily to LEAs.

Special Funding Requirements: None.

Types of Activities Supported: Instructional services. Most projects are either transitional bilingual education (use the native language to the extent necessary to teach English and assist students to meet grade promotion and graduation standards), or special alternative instructional programs (such as English-as-a-second language or immersion that primarily use English as the language of instruction).

FY 1988

# of applications	not available
# of awards.........................	87*
Participating Students..............	14,861*
States Participating................	18*

Program Evaluations: The "National Evaluation of Instructional Services for Native American Students" collected data on the academic performance of American Indian students in Bilingual Education projects at elementary schools in isolated rural schools on or near Indian reservations. This study found that students in the study scored substantially below the national average on standardized achievement tests of mathematics and English language arts. Over the two years of the study, scores declined or remained the same.

Five-year funding history

1989...............................	not available
1988...............................	$10,729,000
1987...............................	10,514,000
1986...............................	9,656,000
1985...............................	10,085,000

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*The numbers reflect services provided to Native American students under the Bilingual Education Program in 1988, the last year for which data are available. It is likely that participation in 1989 was similar to 1988. There is no specific set-aside for Indians under the Bilingual Education Act. Applicants proposing to serve Indian students compete with all other applicants.

U.S. DEPARTMENT OF EDUCATION

PERSONNEL MANUAL INSTRUCTION

PMI 335-3
DATE SEP 21 1989
APPROVED: Veronica D. Trietsch
Director of Personnel

SUBJECT: Selection Program for Office of Indian Education

I. Authority

Section 5341 of the Indian Education Act of 1988, enacted at Title V, Part C, Subpart 4, of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Public Law No. 100-297).

II. Applicability

A. This Instruction sets forth the Department's policies and requirements for implementation of the "Indian Education Act of 1988" with respect to filling positions in the Office of Indian Education (OIE).

B. This Instruction provides the policies and requirements for applying the one-time preference for non-Indians and non-tribal Indians for selection to other positions within the Department.

C. This Instruction also provides the policies and requirements for applying Indian preference in the implementation of a reduction-in-force (RIF).

III. Definitions

A. Indian means an individual who is:

1) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, and a member of any recognized Indian tribe now under Federal jurisdiction; or

2) determined to be an Indian under regulations promulgated by the Secretary of Education.

Distribution: FPM Chapter 335

B. Indian Tribe - means an individual who is a member of any group or community, including any Alaska Native Village, or regional or village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that exercises the power of self-government.

C. Indian Education Program - experience or equivalent education with or directly related to the education of Indians.

D. Non-Indian or non-tribal Indian - an individual who is not a member of an Indian tribe, band or other organized group of Indians (as defined by the Indian tribe, band or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, and a member of any recognized Indian tribe now under Federal jurisdiction.

E. Office of Indian Education - the organizational unit in the Department of Education which is assigned responsibility for programs under the Indian Education Act, as amended, and predecessor offices.

F. One-time Preference - priority referral until selected which is accorded to a non-Indian or non-tribal Indian who was serving in a position in OIE on April 28, 1988. The referral is for a vacancy in another office of the Department and may be at any grade level for which the employee is qualified and applies.

G. Priority Referral - referral on a certificate of eligibles with preference for selection given to identified eligibles.

H. Professional Position - a position which has a positive education requirement and/or one which is classified at two-grade intervals.

IV. Policy

A. In filling positions in OIE for which a best qualified list of candidates is certified from an OPM register or developed in accordance with the Department's Merit Promotion program, it is the Department's policy that if an Indian is evaluated as being among the best qualified, he or she must be selected in preference to other non-Indian or non-tribal Indian employees on the list unless an exception is authorized or a justification for non-selection is approved as indicated below.

In the event that an Indian applicant for an OIE position is not selected for the position for which he or she is evaluated as being among the best qualified, the selecting official must submit, in writing, a justification for the non-selection. The justification must be addressed to the Assistant Secretary for the Office of Elementary and Secondary Education, via the Director, Personnel Management Service, Attn: PPPES.

B. In filling positions in other offices of the Department for which a best qualified list of candidates is certified in accordance with the Department's Merit Promotion program, it is the Department's policy that if a non-Indian or non-tribal Indian employee who was serving in OIE on April 28, 1988 is evaluated as being among the best qualified, he or she must be selected in preference to other employees whose names appear on the list unless an exception is authorized or a justification is approved as indicated below.

Should a non-Indian or non-tribal Indian employee of OIE not be selected for a position in this Department outside of OIE for which he/she is evaluated as being among the best qualified, the selecting official must submit, in writing, a justification for the non-selection. The justification must be addressed to the Deputy Under Secretary for Management, via the Director, Personnel Management Service, Attn: PPPES.

C. The justification for non-selection must be approved prior to filling the position.

D. In the event of a RIF that would affect the Office of Indian Education, placement of employees within OIE as a result of the RIF will be consistent with the Indian Education Act of 1988 and any applicable provisions of a negotiated collective bargaining agreement.

V. Procedures

Implementing procedures for Indian and non-Indian preference are attached.

Procedures for Implementing the Indian Preference Provisions for Selection and Reduction in Force (RIF) for Positions in the Office of Indian Education (OIE)

Effective immediately, Indian candidates will be given preference for selection for all positions in the Office of Indian Education. Indian employees in the Office of Indian Education will also be given preference when implementing a RIF in the Office of Indian Education. For the purposes of implementing these procedures, an "Indian" is defined as a member of an Indian tribe, band or other organized group of Indians (as defined by the Indian tribe, band or other organized group), including those Indian tribes, bands or groups terminated since 1940 and those recognized by the State in which they reside, and a member of any recognized Indian tribe now under Federal jurisdiction. The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village, or regional or village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that exercises the power of self-government. As indicated below, the procedures that will be used are as follows:

- Indian preference will be applied in filling all positions in the Office of Indian Education.

- All staff appointed to professional positions in OIE must have experience at the appropriate grade level in Indian education programs and such knowledge must appear as a selective factor on the vacancy announcement. Related education may be substituted in accordance with criteria in X-118, OPM Qualification Standards.

- In accordance with Section 5341 of the Indian Education Act of 1988, enacted at Title V, Part C, Subpart 4, of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Public Law No. 100-297), when filling positions in the Office of Indian Education, the Department shall give a preference to Indian candidates who present proof of eligibility for Indian Preference. Proof of eligibility includes, but is not limited to, a copy of a tribal membership card or tribal voter registration card; written certification of membership by an authorized representative of the tribe; or any other proof deemed acceptable by the Secretary of Education.

- If rated among the best qualified for a position in OIE, an Indian applicant will be placed on the certificate of eligibles (CERT) along with other best qualified candidates but will be identified as an Indian Preference Eligible (IPE).

- If determined to be eligible for reassignment in connection with a vacancy announcement, the employee will be placed on a reassignment CERT along with other reassignment eligibles, but will be identified as an IPE.

- The selecting official must interview each IPE certified and must select one unless a written justification for non-selection is approved by the Assistant Secretary for the Office of Elementary and Secondary Education.

- If two or more IPEs are certified for selection any one of them may be selected.

- The selecting official will indicate on the certificate of eligibles (OPM or ED) the employee(s) selected for the position(s) and will return the certificate to the servicing personnel office. The selecting official will not notify the employee of his/her selection. This will be done by the servicing personnel office.

The following actions are exempt from the selection provisions of this procedure:

o Placement resulting from judicial or administrative appeal decisions (e.g., EEOC, MSPB or court decisions or settlements) or other non-discretionary entitlement (e.g., employee exercising reemployment rights).

o Actions required by statute.

o Non-competitive promotions.

o Temporary promotions and temporary appointments.

o Details.

o Non-competitive lateral reassignments of a non-Indian or non-tribal Indian in OIE to a position within OIE at the same grade level or to one with equivalent promotion potential. (Does not include reassignments in connection with a vacancy announcement.)

- Placements as a result of RIF in OIE under which Indian preference has been granted.
- Other personnel actions which are employee based rather than based on management discretion, such as performance awards and ratings, training, separation for conduct and related actions.

Preference for Reduction-In-Force

In the event of a RIF that would affect the Office of Indian Education, placement of employees within OIE as a result of the RIF will be consistent with the Indian Education Act of 1988 and any applicable provisions of a negotiated collective bargaining agreement.

DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION
OFFICE OF INDIAN EDUCATION

CERTIFICATION OF INDIAN PREFERENCE FOR EMPLOYMENT

NAME ______________________________

VACANCY
(INCLUDE ANNOUNC. NO.) ___________________________

In accordance with the Indian Education Act of 1988, application is made for preference as a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside; and a member of any recognized Indian tribe now under Federal jurisdiction.

The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village, or regional or village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that exercises the power of self-government.

As evidence of your eligibility for Indian preference for employment, attach a copy of one of the following documents, and indicate which document is attached:

_____ Certification by an authorized representative of the tribe, band or other organized group of Indians

_____ Tribal voter registration card

_____ Tribal membership card

_____ Other (PLEASE SPECIFY) ______________________________
____

I certify under penalty of perjury that the foregoing information provided by me is true and correct.

Executed on ____________________ ____________________
Date Signature

Procedures for Implementing the One-time Preference for Selection for Non-Indians in the Office of Indian Education (OIE)

Effective immediately, non-Indian and non-tribal Indian employees of OIE who were serving in the OIE on April 28, 1988 and who wish to apply for a position elsewhere in the Department may use a one-time preference for selection to such a position. One-time preference is defined as priority referral until selected for a vacancy at any grade level, for which qualified, in any other office of the Department. For the purpose of implementing this procedure, a non-Indian or a non-tribal Indian is defined as an individual who is not a member of an Indian tribe, band or other organized group of Indians (as defined by the Indian tribe, band or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside, and a member of any recognized Indian tribe now under Federal Jurisdiction. As indicated below, the procedures that will be used are as follows:

- The one-time preference for selection extends to a vacancy announcement at any grade level for which qualified in any other office of the Department.

- A non-Indian Preference Eligible (NIPE) wishing to exercise his/her one-time preference for an announced vacancy must complete ED Form NIPE-1 (see attached) and attach it to the front of the SF-171 on which application is made.

- If rated among the best qualified for the position, the NIPE will be placed on the certificate of eligibles (CERT) along with other best qualified candidates, but will be identified as a NIPE.

- If determined to be eligible for reassignment at the same grade level in connection with a vacancy announcement, the employee will be placed on a reassignment CERT along with other qualified reassignment eligibles, but will be identified as a NIPE.

- The selecting official must interview each NIPE certified and must select one unless a written justification for non-selection is approved by the Deputy Under Secretary for Management. Approval will be given only for legitimate, work-related reasons, which may include, but are not limited to: FTE (ceiling) limitations, a NIPE performance rating of record below Fully Successful, or lack of specialized skills or abilities necessary to perform the duties of the position at the level required.

- If two or more NIPEs are certified for selection, any one of them may be selected.

- After a NIPE has been selected while using his/her one-time preference, his/her entitlement under these procedures is terminated. However, a NIPE may withdraw his/her application from consideration, prior to an offer being made by the personnel office, and still retain the preference.

- A NIPE will be notified upon having his/her entitlement terminated and will be given any relevant information regarding his/her current status.

- A NIPE who voluntarily leaves OIE loses his/her entitlement under these procedures. The employee will be required to sign a statement acknowledging that his/her entitlement to the one-time preference is terminated. Reassignments by management direction are not considered "voluntary" for the purpose of this paragraph.

With respect to NIPEs, the following actions are exempt from the selection provisions of this procedure:

- o Placement resulting from judicial or administrative appeal decisions (e.g. EEOC, MSPB or court decisions or settlements) or other non-discretionary entitlement (e.g. employees exercising reemployment rights).

- o Non-competitive lateral reassignments to a position at the same grade level or to one with equivalent promotion potential. (Does not include reassignments in connection with a vacancy announcement).

- o Non-competitive promotions.

- o Actions required by statute.

- o Temporary promotions and temporary appointments.

- o Details.

- o Selection of an employee to avoid or reduce the impact of a RIF.

APPLICATION FOR ONE-TIME PREFERENCE

(FORM MUST BE ATTACHED TO FRONT OF SF-171)

NAME____________________________________

ORGANIZATION IN WHICH
CURRENTLY EMPLOYED________________________________

VACANCY FOR WHICH
APPLICATION IS MADE________________________________
(INCLUDE ANNOUNC. NO.)

In accordance with the Indian Education Act of 1988, which authorizes a one-time preference to non-Indian and non-tribal Indian employees serving in the Office of Indian Education, I am applying for the above cited position.

I understand that, should I be selected for this vacancy, my one-time preference will be terminated.

I certify that on April 28, 1988 I was serving in the Office of Indian Education and have remained in that office until the present date.

______________________________ __________
Signature Date

MEMORANDUM OF UNDERSTANDING

In accordance with Article 8 of the Collective Bargaining Agreement, this memorandum is entered into between the United States Department of Education (the Employer) and the American Federation of Government Employees, Council 252 (the Union) represented here by AFGE Local 2607, upon delegation by the Council.

The Employer and the Union agree that the Employer may implement the Department selection program and procedures for implementing the Indian preference provision of the Indian Education Act 1988, a copy of which is appended to this Memorandum and is initialed on each page by a representative of each Party. Those provisions of the selection program and procedures which are within the scope of mandatory bargaining under 5 U. S. C. Chapter 71 and the Parties Collective Bargaining Agreement are hereby agreed upon by the Parties. Both Parties recognize and understand that provisions of the selection program and procedures which do not concern conditions of employment of unit employees, which concern the filling of positions outside the bargaining unit, or which represent rights reserved to management by statute or the Collective Bargaining Agreement have not been negotiated and are not subject to this Memorandum.

In addition to the provisions of the selection program and procedures for implementing the Indian preference which are subject to negotiation and have been negotiated, the following is also agreed to:

> In the event of a reduction-in-force that would affect the Office of Indian Education, placement of employees within OIE as a result of the RIF will be consistent with the Indian Education Act of 1988.
>
> In the event that the employer determines that a reduction-in-force that effects the Office of Indian Education may be necessary, the Department recognizes that the Union reserves its rights, as may be applicable under 5 U.S.C. Chapter 71 and the Collective Bargaining Agreement, to negotiate over impact and implementation of the RIF at that time.

For the Employer 9/15/89 Date

Margaret E. Nelson For the Union 9/15/89 Date

John B. Allen For the Employer 9/15/89 Date

Mary L. For the Union 9/15/89 Date

Daniel F. Bonner For the Employer 9/15/89 Date

MEMORANDUM OF UNDERSTANDING

In accordance with Article 8 of the Collective Bargaining Agreement, this Memorandum is entered into between the United Sates Department of Education (the Employer) and the American Federation of Government Employees, Council 252 (the Union) represented here by AFGE Local 2607, upon delegation by the Council.

The Employer and the Union agree that the Employer may implement the Department policy on the one-time preference for selection for non-Indians in the Office of Indian Education, a copy of which is appended to this Memorandum and is initialed on each page by a representative of each Party. Those provisions of the policy which are within the scope of mandatory bargaining under 5 U.S.C. Chapter 71 and the Parties' Collective Bargaining Agreement are hereby agreed upon by the Parties. Both Parties recognize and understand that provisions of the policy which do not concern conditions of employment of unit employees, which concern the filling of positions outside the bargaining unit, or which represent rights reserved to management by statute or by the Collective Bargaining Agreement have not been negotiated and are not subject to this Memorandum.

In addition to the provisions of the policy which are subject to negotiation and have been negotiated, the following is also agreed to:

> The Employer will offer training or other assistance to non-Indian preference eligibles on preparation of SF-171's, on identifying other occupations within the Department for which they might apply, and on the preparation of SF-171's for the purpose of meeting qualification requirements for such occupations.

The Employer recognizes that the Union reserves its right, as may be applicable under 5 U.S.C. Chapter 71 and the Parties' Collective Bargaining Agreement, to negotiate the Indian preference provisions of Public Law No. 100-297 pertaining to personnel actions in the Office of Indian Education.

James P. Keenan 3/17/89 Marjorie T. Nelson 3/20/89
For the Employer Date For the Union Date

Hazel L. 3/17/89 Mary L. 3/20/89
For the Employer Date For the Union Date

Daniel F. Bonner 3/20/89
For the Employer Date
for Beryl Dorsett